

H-3103-1 - FEES, RENTALS, AND ROYALTY

KeywordsVIII. Suspension of Operations and/or ProductionA. General

Under 43 CFR 3103.4-2, a suspension of all operations and production on a lease may be granted only when the authorized officer consents to the suspension in the interest of conservation of natural resources. The authorized officer is responsible for promptly notifying the SO Lease Adjudication for appropriate lease case file processing. Circumstances that normally warrant lease suspensions are addressed in Manual Section 3160-10, Suspension of Operations and/or Production.

SUSPENSION
OF OPERATIONS
AND/OR
PRODUCTION

The Department of the Interior Solicitor's Opinion M-36953, dated May 31, 1985 (92 I.D. 293), clarifies the policy and procedure for the suspension of oil and gas leases, and provides the following interpretation of the lease suspension provisions contained in Sections 39 and 17(i) (Section 17(f) prior to the amendments of the Reform Act) of the Mineral Leasing Act, as amended (30 U.S.C. 209 and 226(i), respectively).

SOLICITOR'S
OPINION ON
LEASE SUSPENSIONS

A suspension of operations and production under Section 39 of the MLA must suspend both operations and production to the extent that the lessee is denied all beneficial use of the lease. Such a suspension stops the running of the lease term and suspends the payment of rental, royalty, or minimum royalty.

SUSPENSION OF
OPERATIONS AND
PRODUCTION -
SECTION 39

A suspension of operations and production under Section 39 is allowed for leases soon to expire that are in areas where the adjacent Federal tracts needed to conduct logical exploration and development are not yet available for lease due to delays in completing the land use planning and associated comprehensive environmental analysis. This BLM policy allows such a lease suspension when the efficient exploration and development of the lease or leases cannot occur due to their proximity, or commingling, with the Federal lands needed to complete lease blocks on a geologic play. The lessee requesting a lease suspension must submit a proposal for the designation of a logical area subject to exploration and development that includes all acreage (leased or otherwise) needed to properly drill and explore the target play. The lessee has the burden of proving that, in order to obtain the greatest ultimate recovery of the oil or gas, it is not logical to proceed with exploration activities on the existing leases without the neighboring unleased Federal tracts. The proposal must contain supporting geologic information, including the results of any geophysical surveys, and other pertinent information.

SUSPENSION OF
OPERATIONS AND
PRODUCTION FOR
LEASES AFFECTED
BY LEASING DELAYS

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Keywords

A suspension of operations or a suspension of production under Section 17(i) of the MLA may be approved or directed by the authorized officer where the lessee, despite the exercise of due care and diligence, is prevented from producing or operating by reason of force majeure, i.e., by matters beyond the reasonable control of the lessee. This includes events such as acts of God and an unforeseeable administrative delay that would not qualify the lease for a Section 39 suspension of operations and production in the "interest of conservation." A suspension of operations or a suspension of production also stops the running of the lease term. However, an important distinction between a Section 39 suspension and a Section 17(i) suspension is that a Section 17(i) suspension of operations or suspension of production does not suspend the payment of rental, royalty, or minimum royalty.

SUSPENSION OF
OPERATIONS OR
SUSPENSION OF
PRODUCTION -
SECTION 17(i)

The Reform Act requires that an Application for Permit to Drill (APD) cannot be approved until after a 30-day posting period. The policy in Manual Section 3160-10 provides that lease suspensions shall be given only in the interest of conservation of natural resources or in a force majeure situation, and when the lessee has diligently pursued lease development and has timely filed an application for suspension. Therefore, a lease is not eligible for a suspension of operations and/or production until the end of the 30-day posting period of the APD as required by the Reform Act.

SUSPENSION OF
LEASE NOT
ALLOWED UNTIL
END OF 30-DAY
APD POSTING
PERIOD UNDER
REFORM ACT

The authorized officer may deny a request for a suspension of operations and production where an APD was filed less than 30 days prior to the lease expiration date, but the APD was processed expeditiously and approved prior to the lease expiration date, and thus, there is no basis to conclude that a suspension was necessary in the interest of conservation (NevDak Oil and Exploration, Inc., 104 IBLA 133 (1988)).

If a suspension of operations and/or production is granted for a lease in a unit and the unit is subsequently declared invalid, the suspension of the lease is valid only for the period prior to the unit being declared invalid even if the application for suspension is executed only by the unit operator and not by the lessee. When the unit is declared invalid, the lessee must be notified that the suspension will be ended as of the date the unit is declared invalid, unless the lessee provides justification for continuation of the suspension. The lessee is to be given a reasonable period of time to submit such a justification.

LEASE SUSPENSION
WHEN UNIT
DECLARED INVALID

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Keywords

When an oil and gas lease located within a wilderness study area (WSA) was issued after enactment of the Federal Land Policy and Management Act of 1976 (but prior to the statutory prohibition for leasing such WSA lands), and is subject to the wilderness protection stipulation that prohibits impairment of wilderness suitability, when the lessee is denied approval of an APD for failure to meet the nonimpairment standard, the denial is not a restriction tantamount to a suspension of operations and production under 30 U.S.C. 209 (Beartooth Oil and Gas Co., 94 IBLA 115 (1986)).

SUSPENSION
PROVISION
NOT APPLICABLE
WHEN APD NOT
APPROVED DUE
TO WILDERNESS
IMPAIRMENT
RESTRICTION

The existence of litigation involving whether a lease was issued in violation of the National Environmental Policy Act (NEPA) and Section 7 of the Threatened and Endangered Species Act does not amount to the denial of beneficial use of the lease, absent an injunction against activity under the lease. In such a case, the authorized officer properly may deny a request for a lease suspension (Paul C. Kohlman, 111 IBLA 107 (1989)). However, a suspension of operations and production may be granted by the authorized officer for the time needed to comply with NEPA (Stephen G. Moore, 111 IBLA 326 (1989)).

When an appeal is filed on a decision denying a request for a suspension of operations and production, only the effect of the BLM's decision is suspended under 43 CFR 4.21(a), but the lease is not suspended. Although the regulation 43 CFR 4.21(a) provides that the timely filing of a notice of appeal will suspend the effect of the decision under appeal (if a stay is timely requested and granted), this provision does not require the agency to take positive action for the benefit of an appellant. Thus, the pendency of such an appeal does not preclude the BLM from issuing a notice that the lease will expire if the lessee fails to place a well in producing status within 60 days, because the notice will be mooted if the appeal is successful (Prima Exploration, Inc., 96 IBLA 80 (1987)).

APPEAL MADE ON
DENIAL OF REQUEST
FOR LEASE
SUSPENSION DOES
NOT PREVENT LEASE
EXPIRATION

A suspension of operations and/or production may be granted by the authorized officer after the lease expiration date, however, the application for such a suspension must be filed prior to the lease expiration date. Failure to timely file the request for lease suspension results in there being no lease in existence that may be suspended (Mobil Producing Texas and New Mexico, Inc., 99 IBLA 5 (1987)).

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B. Suspension of Operations and Production (Section 39) -
Suspension of Lease Term and Rental

Responsible Official	Step	Action	Keywords
SO Fluid Minerals or Field Office Operations	1.	Provide the SO Lease Adjudication a copy of the letter sent to the lessee that a suspension of all operations and production has been granted (see Illustration 14).	NOTIFICATION OF SUSPENSION GRANTED
Adjudication	2.	Prepare a decision to officially inform all record titleholder(s) that the lease term is suspended on the BLM records and no rental will be due until the lease suspension has been lifted (see Illustration 15).	NOTIFY LESSEE OF SUSPENSION
		<p><u>NOTE:</u> This official decision to the lessee is required even though the Field Office fluid mineral operations staff may already have sent a letter of notification granting the suspension.</p>	
ALMRS Entry	3.	Update ALMRS Entry using the current data standards.	AUTOMATED NOTATION
	3a.	Enter Action Date (MANDATORY ACTION CODE): Effective date of suspension of operations and production with no payment required; DE 1775 Action Code 315/DE 2910 Action Code 676; Action Remarks: Reason for suspension.	
	3b.	Remove DE 1775/2910 Action Code 763. When a lease goes into suspension, the lease expiration date is to be removed.	
Adjudication	4.	Prepare accounting advice to notify the MMS-DMD of the lease suspension and clearly indicate that no rental is due during the period of the suspension (see Illustration 16). Transmit the accounting advice to the MMS-DMD within 5 working days of completing the action.	MMS NOTIFIED OF LEASE SUSPENSION

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C. Suspension of Operations and Production (Section 39) -
Lifting of Lease Suspension and Adjustment of Lease Term
and Rental

Responsible Official	Step	Action	Keywords
SO Fluid Minerals or Field Office Operations	1.	Notify the SO Lease Adjudication that the suspension of operations and production on the lease has been ended or lifted (see Illustration 17).	NOTIFICATION OF LIFTING OF SUSPENSION
Adjudication	2.	Prepare a decision officially notifying all lessees of record that the lease suspension has been lifted (see Illustration 18). Indicate the revised lease expiration date and, as appropriate, reconciliation of the rental amount due, prorating as necessary (see Illustration 19) to take the rental due up to the next regular lease anniversary date, since the lease anniversary date never changes (see <u>C.W. Trainer</u> , 69 I.D. 81 (1962)).	LESSEE NOTIFICATION OF LIFTING OF SUSPENSION OF OPERATIONS AND PRODUCTION
	3.	For the lease year in which the suspension was granted, credit the rental paid to the balance of the months that remain in that same lease year, after the suspension is lifted, since the rental has already been paid for that full lease year period.	SUSPENSION LIFTED - CREDIT RENTAL FOR REMAINDER OF LEASE YEAR
	4.	For those leases requiring an escalating rental beginning with the 6th lease year, when a lease is suspended any time during its first 5 years, this 5-year time period does not include those calendar months that elapsed during the period of the lease suspension, i.e., the rental rate remains at \$1.50 per acre for the first full 60 months of the lease term, even though this may occur over more than 5 years of actual elapsed calendar time.	RENTAL CREDIT DURING FIRST 5 YEARS FOR LEASES WITH ESCALATING RENTAL TERMS

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Responsible

Official	Step	Action	Keywords
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| 5. | | Rental amounts for the suspended portion of any lease year are NOT to be refunded, but are to be retained by the MMS to be applied for the months that remain in that lease year during which the suspension was granted. | RENTAL CREDIT
NOT TO BE
REFUNDED |
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EXAMPLE: Lease issued 3-1-89, for a 10-year primary term, to expire 2-28-99. Rental was timely paid for the 5th lease year of 3-1-93 to 2-28-94. A suspension of operations and production was granted effective 6-1-93. The suspension was lifted effective 10-1-94. The revised expiration date of the lease is now 6-30-2000, i.e., the expiration date of the lease is extended an additional 16 months to make up for the time the lease was in suspension. The rental paid for the 1993-94 (5th lease year) covers the remaining period of 10-1-94 to 6-30-95 at the \$1.50 per acre rental rate, and the escalating rental for the 8-month period of 7-1-85 through 2-28-96 (to bring the regular rental due date back to the lease anniversary date) is prorated at the \$2 per acre rental rate.

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Responsible

OfficialStepActionKeywords

EXAMPLE: Lease issued 7-1-90, for a 5-year primary term, to expire 6-30-95. Rental was timely paid for the 4th lease year of 7-1-93 to 6-30-94. A suspension of operations and production was granted effective 4-1-94. The suspension was ended effective 9-1-94. The revised expiration date of the lease is 11-30-95, i.e., the expiration date of the lease is extended an additional 5 months to make up that portion of the primary term while the lease was in suspension. The rental paid for the 1993-94 lease year covers the remaining 3-month period of the 4th lease year from 9-1-94 to 11-30-94. The prorated rental for the 7 months from 12-1-94 through 6-30-95 (to bring the regular rental due date back to the lease anniversary date) is to be requested from the lessee. A full year's rental is due on or before 7-1-95 even though the lease expiration date is 5 months later on 11-30-95.

6. In the decision notifying the lessee of the lifting of the suspension, if it is appropriate, also request the next full year's rental to be remitted to the MMS within 30 days. Such a request will depend on the timing of the lifting of the suspension in relation to the lease anniversary date. Also, send a copy of the decision to the MMS-DMD. On the accounting advice sent to the MMS-DMD notifying it of the lifting of the suspension, enter a statement in the Remarks Section that the annual rental of \$_____ for the next lease year was requested by a decision dated (Date) to be paid to the MMS.

SUSPENSION
LIFTED -
REQUEST NEXT
FULL YEAR'S
ANNUAL RENTAL

ACCOUNTING
ADVICE -
NOTIFY MMS-DMD
OF LIFTING OF
SUSPENSION AND
ANNUAL RENTAL
PAYMENT REQUEST

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Responsible

Official	Step	Action	Keywords
	7.	Provide the lessee notice of the changed status of the lease, giving 30 days to remit the rental obligation that has accrued, following the principles in <u>Husky Oil Company of Delaware, Depco, Inc.</u> , 5 IBLA 7 (1972), That is, the automatic termination provisions of 30 U.S.C. 188 does not apply in this case. Further, the automatic termination of a lease does not apply where, due to other contingencies, additional rental may become due on a date other than the lease anniversary date (see Solicitor's Opinion, M-36458, 64 I.D. 333 (1957)).	
	8.	If, in the above case, the suspension had been lifted sufficiently in advance of the July 1 lease anniversary date, i.e., if suspension was lifted on 1-1-95, the accounting advice to the MMS-DMD is to request the MMS to issue the billing notice for the next annual rental due for the full lease year. This procedure is to be used when sufficient time exists, i.e., at least 120 days, between the MMS receipt of the accounting advice and the next lease anniversary date to ensure adequate time for the MMS lease status to be updated for issuance of the rental billing notice on the normal schedule for the lease.	SUSPENSION LIFTED - REQUEST MMS TO ISSUE RENTAL BILLING NOTICE
	<p><u>NOTE:</u> The MMS normally issues rental courtesy notices 75 days prior to the lease anniversary date. To expedite processing by the MMS, the party making rental payments needs to be advised to indicate the lease serial number on the rental remittance.</p>		

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Responsible Official	Step	Action	Keywords
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| 9. | If the suspended lease is eliminated or contracted from a unit, or receives an extension due to drilling over the expiration date, the rental may have to be prorated for those months remaining prior to the next regular anniversary date that are during the remainder of the 2-year extension period. | SUSPENSION
LIFTED -
LEASE ALSO
SUBJECT TO
2-YEAR LEASE
EXTENSION |
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EXAMPLE: Lease issued 1-1-83, for 10 years, to expire 12-31-92. The lease is in a unit agreement. The lease was granted a suspension of operations and production effective 12-1-92, that was lifted on 6-1-94. The unit also was terminated on 6-1-94. The revised lease expiration date is now 6-30-94, i.e., 1 month after lifting of the suspension. But, due to the unit termination, the lease is granted a 2-year extension to 6-1-96. Rental paid for the 1992 lease year covers the remaining month in the 10th lease year, through 6-30-94. Rent for the period from 7-1-94 to 12-31-94 is to be requested in the decision notifying the lessee of the lifting of the suspension. The next rental period is to be billed by the MMS that begins 1-1-95 through 12-31-95.

NOTE: If the lease remains in a rental status for the remainder of its extended term, a full year's rental for the 1-1-96 to 6-1-96 period would be due and payable to the MMS, even though this last year is less than a full year.

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Official	Step	Action	Keywords
	10.	If a lease is suspended shortly before its expiration date and, after the suspension was lifted, no drilling occurred over the expiration date, if the 6th or 11th year rental has been paid (either before the suspension had been granted or after the suspension had been lifted), such rental is to be authorized for refund. However, if drilling was occurring over the lease expiration date, the 6th or 11th year's rental payment is retained and fully applied.	SUSPENSION LIFTED - REFUND 6TH/11TH YEAR RENTAL IF LEASE NOT EXTENDED DUE TO DRILLING
	11.	Prepare accounting advice to notify the MMS-DMD of the lifting of the suspension and provide appropriate billing notice instructions (see Illustration 20). Transmit accounting advice to the MMS-DMD within 5 working days of completing the action.	NOTIFY MMS-DMD OF LIFTING OF SUSPENSION
ALMRS Entry	12.	Update ALMRS Entry using current data standards.	AUTOMATED NOTATION
	12a.	Enter Action Date (MANDATORY ACTION CODE): Date suspension of operations and production lifted (using first day of the month in which the suspension was lifted); DE 1775 Action Code 316/DE 2910 Action Code 678.	
	12b.	Enter Action Date (MANDATORY ACTION CODE): Revised date of lease expiration; DE 1775/2910 Action Code 763.	

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D. Suspension of Operations Only (Section 17(i)) -
Action on Leases

Responsible Official	Step	Action	Keywords
SO Fluid Minerals or Field Office Operations	1.	Notify the SO Lease Adjudication of the approval of a suspension of operations based on a formal application made under Section 17(i) of the MLA. If the lease is producing, send a copy of the letter to the MMS (see Illustration 21).	NOTIFICATION OF SUSPENSION OF OPERATIONS UNDER SECTION 17(i) OF MLA
ALMRS Entry	2.	Enter Action Date (MANDATORY ACTION CODE): Effective date of suspension of operations only, with payment required; DE 1775 Action Code 314/DE 2910 Action Code 677; Action Remarks: Reason for suspension; General Remarks: Indicate suspension of operations only.	AUTOMATED NOTATION
Adjudication	3.	File a copy of the notification of lease suspension approval in the case file.	
	4.	Prepare a decision notifying all lessees of record that the suspension of lease operations has been granted.	
	5.	For leases in their extended term by production, the suspension stops the running of the lease term and adds the period of suspension to the term of the lease. No adjustment of the lease term is necessary. The lease simply does not expire or terminate during the period of the suspension of operations. However, any royalty or minimum royalty must continue to be paid.	SUSPENSION OF OPERATIONS - LEASES EXTENDED BY PRODUCTION
	6.	For leases not extended by production, the suspension stops the running of the lease term, and the lease term is adjusted upon the lifting of the suspension. Any payment of rental or minimum royalty must continue to be made.	SUSPENSION OF OPERATIONS - LEASES NOT EXTENDED BY PRODUCTION

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Responsible Official	Step	Action	Keywords
	7.	No accounting advice is necessary if the lease is producing. However, if the lease is not producing, prepare an accounting advice to the MMS-DMD to place the lease in suspended status (see Illustration 22). Transmit the accounting advice to the MMS-DMD within 5 working days of completing the action.	SUSPENSION OF OPERATIONS - NOTIFY MMS-DMD

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E. Suspension of Operations - Adjustment of Lease Term
When Suspension Lifted

Responsible Official	Step	Action	Keywords
SO Fluid Minerals or Field Office Operations	1.	Notify the SO Lease Adjudication when the suspension of operations is lifted. If the lease is producing, also send a copy of the approval notification to the MMS-DMD (see Illustration 23).	NOTIFICATION OF LIFTING OF SUSPENSION OF OPERATIONS
ALMRS Entry	2.	Enter Action Date (MANDATORY ACTION CODE): Date suspension of operations was lifted (using first day of the month in which the suspension was lifted); DE 1775 Action Code 316/DE 2910 Action Code 678.	AUTOMATED NOTATION
Adjudication	3.	File a copy of the notification of lifting of the suspension in the case file.	
	4.	Prepare a notice to all lessees of record to provide the official notification that the lease suspension has been lifted.	
	5.	If the lease is in its extended term by production, no further action is necessary. If the lease is not in its extended term by production, include a paragraph in the notice to the lessee indicating the adjusted lease term (see Illustration 24).	SUSPENSION OF OPERATIONS LIFTED - NOTIFY LESSEE
	6.	If the lease is not producing, prepare an accounting advice to the MMS-DMD indicating the new expiration date (see Illustration 25). Transmit the accounting advice to the MMS-DMD within 5 working days of completing the action.	SUSPENSION OF OPERATIONS LIFTED - NOTIFY MMS-DMD

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Responsible

OfficialStep ActionKeywords

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| 7. | If a lease with the rental escalation to a higher rate after the 5th year is in a rental (terminable) status, and a suspension of only operations is granted during the first 5 years of the primary term, the remainder of the 5-year lease period continues at the lower rental rate when the suspension is lifted. In such cases, the lower rental payment is required to continue during the period of the suspension of operations, and shall continue through the revised date that will end the 5th year of the lease term. | LEASE IN RENTAL STATUS WHEN SUSPENSION GRANTED - REMAINDER OF FIRST 5-YEAR LEASE PERIOD CONTINUES AT LOWER RENTAL RATE WHEN SUSPENSION LIFTED |
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H-3103-1 - FEES, RENTALS, AND ROYALTY

F. Suspension of Production Only (Section 17(i)) -
Action on Leases

Responsible Official	Step	Action	Keywords
SO Fluid Minerals or Field Office Operations	1.	Notify the SO Lease Adjudication of the approval of a suspension of production based on formal application made under Section 17(i) of the MLA. Also send a copy of the approval notification to the MMS-DMD (see Illustration 26).	NOTIFICATION OF SUSPENSION OF PRODUCTION UNDER SECTION 17(i) OF MLA
ALMRS Entry	2.	Enter Action Date (MANDATORY ACTION CODE): Effective date of suspension of production only, with payment required; DE 1775 Action Code 314/DE 2910 Action Code 677; Action Remarks: Reason for suspension; General Remarks: Indicate suspension of production only.	AUTOMATED NOTATION
Adjudication	3.	File a copy of the notification of lease suspension approval in the case file.	
	4.	Prepare a decision notifying all lessees of record that the suspension of production on the lease has been granted.	
		<p><u>NOTE:</u> No accounting advice is needed since the lease is in producing (nonterminable) status.</p>	
	5.	If the lease is in its extended term by production, the suspension stops the running of the lease term. No adjustment of the lease term is necessary. The lease simply does not expire or terminate during the period of the suspension of production. However, any royalty or minimum royalty must continue to be paid.	SUSPENSION OF PRODUCTION - LEASES EXTENDED BY PRODUCTION
	6.	If the lease is not in its extended term due to production, the suspension stops the running of the lease term and the lease term is adjusted upon the lifting of the suspension. Any payment of rental or minimum royalty must continue to be made during the suspension period.	SUSPENSION OF PRODUCTION - LEASES NOT IN EXTENDED TERM DUE TO PRODUCTION

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G. Suspension of Production - Adjustment of Lease Term
When Suspension Lifted

Responsible Official	Step	Action	Keywords
SO Fluid Minerals or Field Office Operations	1.	Notify the SO Lease Adjudication when the suspension of production is lifted. Send a copy of the notification to the MMS-DMD (see Illustration 27).	NOTIFICATION OF LIFTING OF SUSPENSION OF PRODUCTION
ALMRS Entry	2.	Enter Action Date (MANDATORY ACTION CODE): Date suspension of production was lifted (using the first day of the month in which the suspension was lifted); DE 1775 Action Code 316/DE 2910 Action Code 678.	AUTOMATED NOTATION
Adjudication	3.	File a copy of the notification of lifting of the suspension in the case file.	
	4.	If the lease is in its extended term by production, no further action is necessary.	
	5.	If the lease is not in its extended term by production, prepare a notice to all lessees of record adjusting the lease term (see Illustration 28). Provide a copy of this notification to the MMS-DMD.	SUSPENSION OF PRODUCTION LIFTED - NOTIFY LESSEE

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Format for Letter of Notification of Suspension of
Operations and Production



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3103 (Office Code)
Serial No.

(Date)

Lessee
Address

Dear _____:

Your letter of July 18, 1994, in behalf of ABC Oil Company, requests that a suspension of operations and production be granted for Federal leases (Serial numbers) committed to the Ruby unit agreement should environmental considerations prevent the timely commencement of the initial unit well.

The Ruby unit agreement was approved and became effective on August 1, 1994, and the application for a permit to drill the initial unit well was filed on May 12, 1995. The U.S. Forest Service subsequently advised that it would not be able to complete its environmental study and approve the well location before June 1, 1996. Until the U.S. Forest Service has completed its tasks in this regard, the BLM cannot approve the application for a permit to drill the initial unit well.

Therefore, pursuant to the provisions of 43 CFR 3103.4-2, approval of your application for suspension of operations and production on leases (Serial numbers) is granted. The suspension is effective June 1, 1995, the first day of the month in which the complete application was filed, and shall remain in effect for an indefinite term. The suspension will be lifted upon approval or denial of the application to drill, or when the authorized officer deems the suspension is no longer in the interest of conservation.

Sincerely,

Authorized Officer
Field Office Operations

Distribution:
State Office Lease Adjudication
MMS-DMD, M.S. 3110
SMA (if other than BLM)

H-3103-1 - FEES, RENTALS, AND ROYALTY

Format for Decision Notifying Lessee of Suspension of
Operations and Production and Suspension of Lease Term and Rental



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3103 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

	DECISION
Lessee/Address	:
	:
	:
/	Oil and Gas
	:
	:

Lease Term and Rental Suspended

A suspension of operations and production in accordance with 43 CFR 3103.4-2 has been granted effective (Date), for oil and gas lease (Serial number).

Under the suspension of all operations and production, the lease term and rental payment for this lease also is suspended effective (Date). The rental submitted for the lease year during which the suspension was granted will be retained in its entirety, with the balance applied to the remaining months in the lease year after the suspension has been lifted. The expiration date of the lease will be adjusted at the time the suspension is lifted.

Authorized Officer

Distribution:
MMS-DMD, M.S. 3110
Field Office Fluid Mineral Operations
SMA (if other than BLM)

H-3103-1 - FEES, RENTALS, AND ROYALTY

Format for Decision Notifying Lessee of Suspension of
Operations and Production and Suspension of Lease Term and Rental



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3103 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

	DECISION
Lessee/Address	:
	:
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	:
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Oil and Gas

Lease Terms and Rentals Suspended

A suspension of operations and production in accordance with 43 CFR 3103.4-2 has been granted effective (Date), for each of the oil and gas leases listed below, which are committed to the (Name) Unit.

(Serial numbers)

Under the suspension of all operations and production, the lease term and rental payments for each of the leases also are suspended effective (Date). The rentals submitted for each of the leases will be retained, with the balance applied to the remaining months in the lease year for each of the involved leases after the suspension has been lifted. The expiration dates of each of the leases will be adjusted at the time the suspension is lifted.

Authorized Officer

Distribution:
MMS-DMD, M.S. 3110
Field Office Fluid Mineral Operations
SMA (if other than BLM)

3160-3 - FIRST PRODUCTION/DISCOVERY REPORTS

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- 3. Format and Distribution for a First Production/Discovery Memorandum on Indian Lands

3160-3 - FIRST PRODUCTION/DISCOVERY REPORTS

.01 Purpose. This Manual Section provides instructions regarding actions that must be taken following the first production/discovery of oil or gas from a well that directly or indirectly affects the Department's leasing, lease management, or royalty management functions.

.02 Objectives. Federal or Indian lands can be affected by the discovery and/or initial production of oil and gas from a well located (a) on a Federal or Indian leasehold; (b) on a committed tract within a unitized or communitized area (CA) that includes Federal and/or Indian lands; or (c) on adjacent nonjurisdictional (State or private-land) leases. The objective to be accomplished by preparing and distributing first production/discovery reports is to ensure that appropriate offices within the Department are notified promptly of each such event, since the extension of leases and agreements beyond their primary terms, drainage determinations, royalty management determinations, and the creation or expansion of known geologic structures (KGS) or unit participating areas may be triggered or affected whenever a well, meeting any of the above circumstances, is completed for oil or gas production.

.03 Authority.

A. 43 CFR Group 3100.

B. Memorandum of Understanding Between the Bureau of Land Management and Minerals Management Service Regarding Working Relationships Affecting Mineral Lease Activities, January 9, 1984.

.04 Responsibility.

A. State Director. The State Director is responsible for making paying well determinations and for reviewing the procedures used by District Managers in reporting discoveries and first production.

B. District Manager. The District Manager, as delegated, is responsible for monitoring all well completions affecting Federal or Indian minerals; preparing first production/discovery reports (memoranda); making paying well determinations; and for notifying the BLM State Director, the Minerals Management Service, and, as appropriate, other BLM offices and the Bureau of Indian Affairs (BIA).

C. Area Managers. The Area Manager is responsible for operations in his/her area, if further delegated.

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.05 References.

- A. Manual Section 3160-2 - Drainage Protection.
- B. Former USGS Conservation Division Manual chapter on extension of leases, R17-CDM 645.6.
- C. Former USGS Conservation Division Manual chapter on unitization, R29-CDM 645.1.
- D. 67 IBLA 246 (September 24, 1982), Yates Petroleum Corp. et al. Appeal from decision of Wyoming State Office, Bureau of Land Management, holding noncompetitive oil and gas lease W-28314 to have terminated by operation of law.

.06 Policy. It is the BLM policy to require preparation of the first production/discovery memorandum in order to accomplish the objectives stated above.

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.1 Guidelines. These instructions apply to wells on (a) Federal public domain and acquired lands, (b) Indian tribal and allotted lands, (c) communitized and unitized areas that include Federal or Indian lands, and (d) nonjurisdictional lands that may affect adjacent Federal or Indian lands.

.11 Reporting Discoveries/First Production on or Affecting Federal Lands. Discovery and/or first production reports must be prepared promptly in all cases where Federal lands are directly involved, i.e., where the well is located on the Federal leasehold or on non-Federal lands communitized or unitized with Federal lands. Accordingly, the authorized officer must monitor all new well completions and recompletions on public domain and acquired land leases and on non-Federal lands within all unitized or communitized areas that include Federal lands. The first production/discovery report should contain the operator's name, well identification and location, geological data, the initial potential test data and, if possible, a paying well determination.

A. First Production/Discovery Memoranda. A first production/discovery memorandum (Illustration 1) must be prepared immediately following first production/discovery on a Federal lease. A memorandum is also required upon completion of the initial well under a communitization action or unitization ~~agreement involving Federal lands, even if previous memoranda have been~~ written for all or some of the individual leases committed to the agreement.

B. Coordination with the Minerals Management Service. At the time each lease or agreement (communitization or unitization) becomes productive, MMS must be provided a copy of all pertinent lease instruments, approved assignments, designations of operator, other relevant documents, and the first production/discovery memorandum. The MMS must be provided copies of unit or communitization agreements and associated documents and exhibits upon approval of the agreements. In those instances where there is nonunitized production within the boundaries of an agreement, MMS must be advised clearly of these circumstances. MMS must also be advised clearly of those circumstances where unitized lands are communitized with nonunit lands, i.e., with lands within the unit area but not committed to the unit plan, or with lands outside but adjacent to the unit area. Also, MMS must be apprised of overlapping or concurrent unit areas, communitized areas, or unit participating areas.

C. Preliminary Determination of Paying Quantities. If the authorized officer cannot initially determine from the initial potential test data and other available information that the well is capable of production in paying quantities, a comment to this effect should be in the "Remarks" section of the memorandum. In that case, a supplemental report must follow as soon as sufficient information is available to determine the capability of the well.

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.12 Reporting First Production/Discoveries on Nonjurisdictional Lands.

First production/discovery reports for nonjurisdictional lands must be submitted only when such well completions may affect adjacent Federal or Indian lands. Accordingly, the authorized officer must monitor drilling wells on nonjurisdictional lands when the completion of such wells may affect nearby Federal or Indian lands. A first production/discovery memorandum (Illustration 2) must be prepared as soon as possible following such completions. Any information that may be of value to the users of such reports should be included in the "Remarks" paragraph of the memorandum.

.13 Reporting First Production/Discoveries on or Affecting Indian Lands.

First production/discovery memoranda for Indian leases are prepared the same as for Federal leases (see Illustration 3).

.14 Reporting Initial Completion in Unit or Communitized Areas.

A Federal oil and gas lease may be extended past its primary term by commitment to a federally approved unit or communitization agreement if a well is completed on a committed tract that is capable of producing unitized/communitized substances in paying quantities prior to the expiration date of the lease. Production in such quantities on any committed tract within the agreement area is considered to be on or for the benefit of each committed lease. Accordingly, a first production/discovery memorandum (Illustration 1) must be prepared as soon as possible after the completion of the first unit or communitized well capable of producing unitized/communitized substances in paying quantities. Even if the first production/discovery in the unit does not qualify as a well capable of producing unitized substances in paying quantities, a first production/discovery memorandum must be prepared if the well is or may be capable of production in paying quantities on a lease basis (see Glossary). This is necessitated by the fact that 67 IBLA 246, dated September 24, 1982 (Yates Petroleum Corp. et al.), concluded that the completion of a unit well that is capable of production in paying quantities on a lease basis is sufficient to extend the term of all Federal leases committed to the unit plan.

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.2 Procedures. The following general procedures must be followed in fulfilling responsibilities and assuring intra- and interagency coordination and cooperation.

.21 Monitoring New Well Completions. The District Manager or Area Manager, if so delegated, monitors new well completions or recompletions on public domain, acquired, and Indian lands leases, on unitized/communitized areas involving Federal or Indian lands, and on State and privately owned leases adjacent to Federal or Indian lands.

.22 Preparation of Memoranda. Immediately following the completion of a well that constitutes first production and/or a discovery, the appropriate memorandum (Illustration 1, 2, or 3) is prepared by the authorized officer. If a paying well determination cannot be made, the memorandum will state that the production is questionable. Such memorandum will be followed by a second memorandum, once sufficient information is available to make the determination.

.23 Distribution of Memorandum. Copies of all first production/discovery memoranda are distributed within the District, to the State Office, MMS, and, as appropriate, to other BLM offices and to the involved office(s) of the BIA. ~~Intra-District (or Intra-State Office, where not delegated)~~ notification of first production/discovery should include all affected organizational entities. Copies of the memorandum also must be forwarded to the bordering State Offices, if the subject well is located within 5 miles of the border with the adjacent States. If the well is located within 5 miles of the border with adjacent Districts within the same State jurisdiction, a copy of the memorandum must also be sent to those District Offices.

3160-3 - FIRST PRODUCTION/DISCOVERY REPORTS

Glossary of Terms

- A -

authorized officer: any employee of the Bureau of Land Management authorized to perform the duties described herein.

- D -

discovery: a well that has been drilled, deepened, or plugged back and completed for oil or gas production in sands, formations, or sources of supply from which hydrocarbons have not previously been produced or tested in the field or area where the well is located.

discovery memorandum: a memorandum prepared after a well has been drilled, deepened, or plugged back and completed for oil or gas production from a sand, formation, or source of supply not previously known to be productive in the field or area in which the well is located. However, where the well also qualifies as the first production from a lease, the memorandum is styled as a first production/discovery memorandum. The well may be located on leased Federal or Indian lands, in a communitized or unitized area that includes committed Federal and/or Indian leases, or on nonjurisdictional lands in close proximity to Federal or Indian lands (leased or unleased). The memorandum should provide the full particulars concerning the well and, if possible, a determination as to whether it is capable of production in paying quantities. If such a determination is not then possible, a subsequent report in that regard must be submitted. The information contained in the report may affect the royalty management program and may relate to lease and agreement extensions, KGS determinations, and drainage reviews.

- F -

first production memorandum: a memorandum prepared after a well has been drilled, deepened, or plugged back and completed for oil and/or gas production from a sand, formation, or source of supply that previously was known to be productive in the field or area in which the well is located, whenever such well represents the first production from that lease. The well may be located on leased Federal or Indian lands, in a communitized or unitized area that includes committed Federal or Indian leases, or on nonjurisdictional lands in close proximity to Federal or Indian lands (leased or unleased). The memorandum should provide the full particulars concerning the well and, if possible, a determination as to whether the well is capable of production in paying quantities. If such a determination is not then possible, a subsequent report in that regard must be submitted. The information contained in the memorandum may affect the royalty management program and may relate to lease and agreement extensions, KGS determinations, and drainage reviews.

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- P -

paying quantities:

1. lease wells: quantities of sufficient value to exceed the direct operating costs (including marketing costs) of the well plus rentals or minimum royalty. Drilling and completion costs and costs of related surface facilities are not considered on a lease basis.
2. unit wells: quantities sufficient to repay the costs of drilling, completing, and producing operations with a reasonable profit. If it is not a paying unit well, then determination of paying quantities is on a lease basis, as in 1, above.
3. communitized wells: see 1, above.

3160-3 - FIRST PRODUCTION/DISCOVERY REPORTS

Format and Distribution for a First Production/Discovery Memorandum
Where Federal Lands are Directly Involved

Memorandum

To: State Director

From:

Subject: Discovery/First Production, Lease No. (or CA or unit if applicable)

Date of Completion:

Field:

Lessee or Operator/Well Name/Number:

Location:

Total Depth and Surface Elevation:

~~Producing Formation and~~ (Show name of formation and top and bottom
Intervals: perforation, or top and bottom of producing
interval.)

Initial Daily Production: (Report all production including water, gas from
an oil well, distillate, or condensate from a gas
well.)

Well Capable of Production (Determine for first production on Federal lease,
in Paying Quantities? communitized area, or unit involving Federal lands
in accordance with definitions.)

Current Status: (Producing, shut-in, etc.)

Reported Formation Tops:

Remarks: (Include additional information that may be pertinent to the State
Office, other BLM offices, MMS, BIA, or BLM geologists, including
the identification of other jurisdictional lands, leases, and
agreements that may be affected in any manner by the first
production/discovery.)

cc: Minerals Management Service
Bureau of Indian Affairs (as appropriate)
BLM Geologist
District Files
Bordering State and District Offices (as appropriate)

3160-3 - FIRST PRODUCTION/DISCOVERY REPORTS

Format and Distribution for a
First Production/Discovery Memorandum on Nonjurisdictional Lands

Memorandum

To: State Director

From:

Subject: First Production/Discovery on Nonjurisdictional Lands

Date of Completion:

Field:

Lessee or Operator/Well Name/Number:

Location:

Total Depth and Surface Elevation:

~~Proximity to Federal Lands:~~

Indian Lands:

Production:

Producing Formation and
Intervals:

(Show name of formation and top or bottom
perforation, or top and bottom of producing
interval.)

Initial Daily Production:

(Report all production, including water, gas from
an oil well, distillate, or condensate from a gas
well.)

Well Capable of Production
in Paying Quantities?

(Apply the same standards as applicable to
Federal/Indian leases.)

Reported Formation Tops:

Remarks: (Include additional information that may be pertinent to the State
Office, other BLM offices, MMS, BIA, or BLM geologists, including
the identification of jurisdictional lands, leases, and agreements
that may be affected in any manner by the first production/
discovery.)

cc: BLM Geologist
District Files
Bureau of Indian Affairs (as appropriate)
Bordering State and District Offices (as appropriate)

3160-3 - FIRST PRODUCTION/DISCOVERY REPORTS

Format and Distribution for a
First Production/Discovery Memorandum on Indian Lands

Memorandum

To: Area Director

From:

Subject: First Production/Discovery, Lease (or CA or unit if applicable)

Date of Completion:

Field:

Lessee or Operator/Well Name/Number:

Location:

Total Depth and Surface Elevation:

Producing Formation and Intervals: (Show name of formation and top and bottom perforation, or top and bottom of producing interval.)

Initial Daily Production: (Report all production, including water, gas from an oil well, distillate, or condensate from a gas well.)

Well Capable of Production in Paying Quantities? (Determine for first production on Indian lease, communitized area, or unit involving Indian lands, in accordance with definitions.)

Reported Formation Tops:

Remarks: (Include additional information that may be pertinent to the State Office, other BLM offices, MMS, BIA, or BLM geologist, including the identification of other jurisdictional lands, leases, and agreements that may be affected in any manner by the first production/discovery.)

cc: Minerals Management Service
State Office
District Files
Other Bureau of Indian Affairs Offices (as appropriate)
BLM Geologist
Bordering State and District Offices (as appropriate)

3160-4 - CONVERSION TO WATER WELL

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3160-4 - CONVERSION TO WATER WELL

.01 Purpose. This Manual Section provides guidelines and procedures for converting unsuccessful oil and gas tests and abandoned oil and gas wells to water supply wells, and for the disposition of water supply wells that are drilled for use in oil and gas exploration, development, and producing operations.

.02 Objectives. The objective of this program is to ensure that, when needed by the Bureau of Land Management (BLM), by other surface management agencies (SMA), or by private surface owners, all wells that have encountered usable water are abandoned in a manner that allows the future beneficial use of that water.

.03 Authority.

A. Federal Land Policy and Management Act of 1976.

B. 43 CFR 2300, 3040, 3160; Onshore Oil and Gas Order No. 1, Approval of Operations on Onshore Federal and Indian Oil and Gas Leases (Circular No. 2538). The following passages from 43 CFR 2300, 3040, and 3160 and from Order No. 1 are relevant to the conversion of oil and gas wells to water wells:

1. Subpart 2310--Withdrawals, General--Procedure.
2. Subpart 3045--Geophysical Exploration (Oil and Gas).
3. Section 3162.3-4 Well Abandonment.
4. Section 3162.4-2 Samples, Tests, and Surveys.
5. Order No. 1, Section VI, Water Well Conversion.

C. Indian Oil and Gas Leases. Many Indian oil and gas leases are issued with language similar to the following: If so required by the Commissioner or his authorized representative, the lessee shall condition, under the direction of the authorized officer, any wells drilled which do not produce oil and/or gas in paying quantities, as determined by the authorized officer, but which are capable of producing water satisfactory for domestic, agricultural, or livestock use by the lessor. Adjustment of cost for conditioning of the well will be made in said cases where it is determined that the well will produce water satisfactorily as aforesaid.

D. Standard Oil and Gas Leases. Standard Federal oil and gas lease terms provide that the lessor reserves the right to purchase casing and to lease or operate valuable water wells.

3160-4 - CONVERSION TO WATER WELL

.04 Responsibility.

A. Secretary. The Secretary has the authority to withdraw federally owned surface around the site of a water well and, if such option is exercised, the authority to reserve the appurtenant water rights.

B. State Director. The State Director is authorized to initiate requests for Secretarial withdrawal of federally owned surface around the site of a well used for water supply purposes and to submit requests for the acquisition of appropriative water rights from individual States, whenever the related water well is situated on surface managed by the Bureau.

C. District Manager. If delegated, the District Manager is responsible for: (1) facilitating the acquisition of wells that can be utilized beneficially for water supply purposes, (2) approving related water well releases, and (3) submitting requests to individual States for the acquisition of appropriative water rights when the related water well is situated on Bureau managed lands.

D. Resource Area Manager. The Area Manager may undertake those responsibilities of the District Manager that are delegated.

.05 References.

- A. Manual Section 3160-1 - Application for Permit to Drill and Subsequent Operations.
- B. Former USGS Conservation Division Manual chapter on well abandonment, R62-CDM 643.3.
- C. 43 U.S.C. 300.
- D. 30 U.S.C. 229a.
- E. Organic Administration Act of 1897.
- F. Multiple Use-Sustained Yield Act of 1960.

.06 Policy. It is the policy of the BLM to identify and protect all usable water resources on jurisdiction lands for beneficial use now or in the future. The individual States have the primary authority and responsibility for the allocation and management of water resources within their respective borders. Thus, except where the Secretary elects to withdraw the surface of involved Federal lands and to reserve the appurtenant water rights, the BLM or other SMA, as the case may be, must comply with applicable State laws to secure the appropriation of the necessary water rights.

3160-4 - CONVERSION TO WATER WELL

.1 Guidelines. The Bureau of Land Management will seek to acquire wells on lands that it manages for water supply purposes and will cooperate with and assist other SMA's and private surface owners in acquiring wells for this purpose. As such, the Bureau of Land Management must work closely with the involved operator when it is desirable to acquire a particular well for this purpose. Potentially suitable wells include those that: (1) were drilled as a water supply source in support of exploration, development, and producing operations and are no longer needed by the operator; (2) encountered usable water but were unsuccessful in discovering commercial quantities of oil and/or gas and are to be plugged and abandoned; and (3) encountered usable water and are to be plugged and abandoned because they no longer are capable of producing oil or gas in commercial quantities. The BLM's primary responsibility, whenever any well is to be abandoned, is to ensure that it is plugged properly, either to the surface or, if it is to be acquired for future use as a water well, to the base of the deepest water-bearing interval of interest. Additional guidance for well abandonment is provided in former USGS Conservation Division Manual chapter R62-CDM 643.3. Any entity (BLM, other SMA, or private surface owner) desiring to obtain such a well as a water source well must assume the cost for any additional work on the well beyond the normal plugging and abandonment required of the operator, and the cost of subsequent operations, and must assume future liability for the well by written agreement.

.11 Restrictions. The conversion of a noncommercial oil or gas well to a water supply well and its subsequent operation is subject to all applicable State laws, BLM regulations, and/or special use permits and, if on lands managed by another SMA, to that SMA's applicable requirements. Those who obtain and/or operate such wells are responsible for compliance with all such applicable requirements.

3160-4 - CONVERSION TO WATER WELL

.12 Liability. Each release from future liability for a well acquired for water supply purposes must be signed by the appropriate party or parties. Suggested formats for release from future liability are provided in Illustrations 1-5. If the well originally was drilled as a water supply well, the operator should furnish BLM with a copy of any statement of completion and description of well filed with the State at the time that execution of the water well release is completed. Thereafter, any other agency and/or individual desiring to use the well must make appropriate arrangement with the party who has accepted liability.

.13 Water Quality Determinations. The authorized officer may require samples, tests, and surveys to be taken by the lessee, without cost to the lessor, to ascertain the presence of or to determine the quality of waters that are encountered during oil and gas drilling operations. Accordingly, routine water analyses are to be required whenever significant finds of water are encountered during such drilling operations, unless the quality of the water in the interval or intervals in question generally is known from available data, or where obtaining representative water samples would be impractical. When an analysis is required to determine water quality, it must be performed by a recognized and/or accredited laboratory. The authorized officer will act on requests for water quality determinations that are initiated by the Bureau or received from other Federal agencies when there is interest in obtaining a particular well as a water supply source.

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.14 Water Rights. The Bureau or other SMA's may acquire, for water supply purposes, those noncommercial oil and gas wells, unsuccessful tests, and associated water supply wells located on lands under their respective management at the time the operator intends to abandon such wells. The water rights associated with those wells that were acquired for this purpose prior to the enactment of the Federal Land Policy and Management Act (FLPMA), i.e., prior to October 21, 1976, were reserved automatically under the provisions of 43 U.S.C. 300 and/or 30 U.S.C. 229a. These previously reserved water rights are still valid and will remain in full force and effect, pursuant to Section 701(c) of FLPMA. However, with the enactment of FLPMA, the automatic reservation provisions of 43 U.S.C. 300 and 30 U.S.C. 229a were repealed. Thus, the water rights associated with wells acquired after October 21, 1976, must be obtained by the Bureau or other SMA (if located on non-BLM land), either by filing for appropriated water rights in accordance with applicable State water laws, or be reserved by a Secretarial election to withdraw the land around the well site pursuant to Section 204(d) and (i) of FLPMA. (Note that some States do not grant water rights to groundwater.) Where a well is to be drilled specifically for a water supply source in support of oil and gas activities, some States require that the operator file for the water rights prior to the commencement of drilling operations. In those instances, the appropriation of the water rights by BLM or another SMA under State law cannot take effect until the initial right has expired. The operator should be requested to inform BLM whether such a permit has been obtained and, if so, when it will expire. Once any well has been acquired, the well may be operated by the Bureau or other SMA, as appropriate, to produce water for use on the lands it manages, or may be leased to private entrepreneurs to impound, store, transport, and/or distribute the water for beneficial uses on the managed lands or other lands. In the latter case, the Bureau or other SMA, as appropriate, may charge the fair market value for the use of the land necessary for the operation of the well and access thereto and for the rights-of-way associated with the distribution of the water to customers.

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.15 Protection of Other Minerals. All wells must be completed and abandoned in a manner that: (1) prevents the intermingling of fluids (oil, gas, and water) between formations or intervals that contain fluids of significantly different quality, and (2) protects other minerals (coal, trona, etc.). When a well is no longer needed by the operator, the authorized officer shall require it to be properly plugged, either to the surface or to the base of the deepest water interval of interest, when it is to be acquired from the operator for future use.

.16 Water Supply Wells. All wells that are drilled specifically for water supply purposes in support of oil and gas leasehold operations must receive the prior approval of the authorized officer via the Application for Permit to Drill (APD) process. In accordance with Order No. 1, the drilling of such a water supply well by the operator generally is authorized in conjunction with the Bureau's approval of a related APD for the oil and gas well. A separate application to drill a water supply well by means of an additional APD is required only where the proposed water supply well will penetrate one or more potentially oil and gas bearing intervals, or where an approval is not associated with a related APD for an oil and gas well. Prior to approval, the authorized officer establishes the surface protection and rehabilitation requirements and determines whether there is an interest in ultimately acquiring the well. When a water supply well is not needed by the operator and is to be abandoned, the authorized officer will approve its plugging to the surface, or its partial plugging or capping in a manner that will enable BLM, another SMA, or a private surface owner to acquire and utilize it as a water supply well.

A. Other Applicable Regulations. The authorized officer's approval to drill a water supply well does not convey any water rights to the operator, and the use of water from the well is subject to applicable State laws and regulations. The use of water from such wells also may be subject to the regulations of and/or stipulations imposed by BLM or the appropriate SMA.

B. On Unleased Land. Water supply wells drilled on unleased land or on a lease other than that for which the water is used are subject to special land use permits or similar authorizations issued by the appropriate SMA. For example, the construction of a ditch, canal, reservoir, or water pipeline on or across public lands will require a Bureau right-of-way under Title V of FLPMA.

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.2 Procedures. For lands where the surface is owned by the Federal Government, the following procedures and associated responsibilities must be followed in acquiring a well for use as a water supply source.

.21 BLM Managed Lands.

A. Decision on Acquiring a Water Well. The authorized officer should decide whether or not a water well is desired at the site while the related APD is being reviewed. If the decision is affirmative and the well encounters usable water, it may be acquired by the Bureau at the time the operator proposes to abandon it.

B. Notifying the Lessee. If a water well is desired, the authorized officer should so notify the operator at the time the APD is approved, and request the operator to provide the necessary cost data when a notice of intention to abandon the well is subsequently filed.

C. Cost Reimbursement and Liability. If, at abandonment, BLM elects to assume further responsibility for the well, the Bureau must reimburse the operator (while required, this rarely occurs in practice) for any recoverable casing or surface equipment to be left in or on the hole solely because the Bureau intends to maintain it as a water supply well or to convert it for such purposes. The payment is based on cost figures (salvage value) supplied by the operator (and verified by the authorized officer) prior to abandonment. When conversion of an unsuccessful test or noncommercial oil and/or gas well is involved, the operator must abandon the well to the base of the deepest fresh water interval of interest, as required by the authorized officer, and complete the reclamation operations, as required by the drilling permit. The process also includes assuring that all paperwork pertaining to the transfer of future liability is signed by the necessary parties before the partial plugging occurs. By signing the release form, the authorized officer accepts, on behalf of the Bureau, the future liability for the operation of the well, including the final plugging when it is no longer needed as a water supply well. However, the operator is not relieved entirely of its responsibility for the well until the required reclamation operations have been completed to the Bureau's satisfaction and the authorized officer has approved the partial abandonment.

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D. Acquiring Water Rights. Upon receipt of a notice of intention to abandon, BLM must make its final decision as to whether it wishes to acquire the well for future use as a water supply source. In many instances, it will be necessary that this decision be made within a few hours after notification of the proposed abandonment. If BLM elects to accept the well, the water rights must be acquired. This is accomplished by the State Director, District Manager, or Area Manager either filing for the appropriated water rights with the State (the more common practice) or, in rare instances, by asserting a Federal reserved water right after obtaining a Secretarial withdrawal of the land around the well site pursuant to Section 204(d) of the FLPMA (see 43 CFR 2310 for withdrawal procedures). In the latter case, the acreage withdrawn should be the least amount necessary to support the use of the well for water supply purposes, but the amount of acreage recommended for withdrawal is left to the discretion of the authorized officer. Since both methods for acquiring the water rights are time consuming, well abandonment to the base of the deepest water bearing interval of interest should, in practice, be allowed to proceed once all appropriate parties (operator, lessee, and authorized officer) have signed the water well release form. Acquisition of the appropriated water rights via State laws or by the assertion of Federal reserved water rights via a Secretarial withdrawal will be accomplished after completion of the abandonment operations.

.22 Other SMA Lands.

A. SMA Informed of Proposed Application. Upon receipt of an APD, the authorized officer immediately furnishes the involved SMA with a copy of the APD.

B. SMA Decision on Acquiring a Water Well. The SMA should provide the authorized officer with a written declaration, proposed prior to approval of the drilling operations, as to whether or not a water well is desired at the site, with its proposed reclamation requirements for the well. If the decision is affirmative and the well encounters usable water, the well may be acquired by the SMA at the time the operator proposes to abandon it.

C. Notifying the Lessee. If the SMA indicates that a water well is desired, the authorized officer should so notify the operator at the time the APD is approved and request the operator to provide the necessary cost data when a notice of intention to abandon is subsequently filed.

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D. Cost Reimbursement and Liability. If, at abandonment, the SMA elects to assume future responsibility for the well, the SMA must reimburse the operator (while required, this rarely occurs in practice) for any recoverable casing or surface equipment to be left in or on the hole, solely because the SMA intends to maintain it as a water supply well or to convert it for such purposes. The payment is based on cost figures (salvage value) supplied by the operator (and verified by the authorized officer) prior to abandonment. When conversion of an unsuccessful test or noncommercial oil and/or gas well is involved, the operator must abandon the well to the base of the deepest fresh water interval of interest, as required by the authorized officer, and complete the reclamation operations, as required by the drilling permit. This process also includes assuring that all paperwork pertaining to the transfer of future liability is signed by an appropriate official of the SMA before the partial plugging occurs. By signing the release form, the appropriate SMA official accepts, on behalf of that SMA, the future liability for the operation of the well, including the final plugging when it is no longer needed as a water supply well. However, the operator is not relieved entirely of its responsibility for the well until the required reclamation operations have been completed to the SMA's satisfaction and the authorized officer has approved the partial abandonment.

E. Acquiring Water Rights. Upon receipt of a notice of intention to abandon, the authorized officer furnishes the appropriate SMA with a copy of the notice and the estimated cost of the casing and the surface equipment to be left in or on the hole, for those wells previously requested. The SMA then must make its final decision as to whether it wishes to acquire the well for future use as a water supply well. The authorized officer provides as much advance notice as possible, but it is recognized that, in many instances, the SMA's decision must be made within a few hours after notification of the proposed abandonment. If the SMA elects to accept the well, the water rights must be acquired. This is accomplished by the SMA either filing for the appropriated water rights with the State (the more common practice) or, in rare instances and with the consent of the head of the SMA, by asserting a Federal reserved water right after obtaining a Secretarial (Interior) withdrawal of the land around the well site pursuant to Section 204(d) and (i) of the FLPMA (see 43 CFR 2310 for withdrawal procedures). In the latter case, the acreage withdrawn should be the least amount necessary to support the use of the well for water supply purposes, but the amount of acreage recommended for withdrawal should be left to the discretion of the SMA. In the case of the U.S. Forest Service, a Federal reserved water right may be claimed if the water is to be used for the primary purposes of the Organic Administration Act of 1897 or for the purposes of the Multiple Use-Sustained Yield Act of 1960. Since both methods for acquiring the water rights are time consuming, well abandonment to the base of the deepest water bearing interval of interest should, in practice, be allowed to proceed once all appropriate parties (operator, lessee, and SMA official) have signed the water well release form. Acquisition of the appropriated water rights via State laws or by the assertion of Federal reserved water rights via a Secretarial withdrawal will be accomplished after completion of the abandonment operations.

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.3 Seismic Operation. The drilling of shot holes in association with the conduction of seismic operations may result in the discovery of usable water. Thus, when a notice of intent to conduct seismic operations involving this technique is received for an area in which there is an interest in establishing a water supply source, the authorized officer should require the applicant to provide prompt notification of any such water discovery. If the quantity and quality of the discovered water are such that a decision is made to acquire the hole for use as a water supply well, the authorized officer must so inform the operator and execute an appropriate water well release form relieving the operator from any further liability for the operation and subsequent plugging of the hole. The Bureau is responsible for the cost of completing the hole as a water supply well. The authorized officer may utilize the operator's personnel and equipment in this regard, if the operator is willing to do so and has the necessary capability. However, the cost of the casing, materials such as cement, and other services are borne by the Bureau, and the operator must be compensated for the use of its equipment and personnel, at least to the extent of the additional expense incurred over and above that which would have been associated with merely plugging the hole. The associated water rights must also be acquired through one of the two available procedures discussed in .21D.

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.4 Private Surface Ownership. The above procedures do not apply where the surface is owned by an individual. In those instances, copies of the operator's applications are not furnished to the private surface owner, and the owner is responsible for making arrangements with the operator to acquire a well for use as a water supply source. The private surface owner and the operator should advise the authorized officer of any such pending arrangement. However, when it is established that a particular well is to be left as a water supply well, the BLM acts as liaison between the operator and the private surface owner in obtaining a release from future liability (Release Agreement, Illustration 1) by requiring the well to be plugged and abandoned in a manner that facilitates its conversion to a water supply well. The private surface owner is responsible for compliance with any applicable State requirements.

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Glossary of Terms

- A -

authorized officer: any employee of the Bureau of Land Management authorized to perform the duties described herein.

- S -

surface management agency: a Federal agency, other than BLM, having jurisdiction over certain lands and the responsibility for protecting and managing the surface resources and uses of those lands, even though they have been leased for oil and gas exploration, development, and production subject to the approval and supervision of the authorized officer.

- W -

water well: any well containing a water source that is of such quality and quantity as to be usable at a reasonable cost for agricultural, domestic, or other beneficial purposes.

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Format for a Release Agreement--Patented Surface

RELEASE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that I _____,
of the County of _____ in the State of _____,
am the surface owner of the hereinafter described land upon which a well for
oil or gas was drilled, to wit:

Operator _____

Lease Number _____

Lessee _____

Well No. _____ (1/4 1/4) Sec. _____, Twp. _____, Rge. _____.

The well is located _____ from the _____ line and
_____ feet from the _____ line of Sec. _____.

I do hereby notify the Bureau of Land Management of my desire to utilize said
well as a water supply well and I do hereby release and discharge the
operator, lessee, and the Bureau of Land Management from any further work or
responsibility in relation to the plugging of said well.

WITNESS by hand and seal this _____ day of _____, 19____.

Surface Owner

Address

IN THE PRESENCE OF:

Address _____

Address _____

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Format for a Water Well Release--Surface Managed by BLM

WATER WELL RELEASE

Instructions: District Manager prepares five copies. File original in District file. Submit one copy each to lessee and/or operator, surface owner, and State Office.	Lease Number or Notice of Intent Number
---	---

_____, hereinafter called operator and _____, hereinafter called lessee, do enter into an agreement by and between the United States of America, through the Bureau of Land Management, hereinafter called the Bureau, for release of water well no longer needed by lessee or operator.

Said water well was

- _____ drilled expressly for water to be used in drilling operation
- _____ discovered in the course of drilling for oil and gas
- _____ discovered by seismograph operators
- _____ other

Said water well is located in (give legal description)

in the State of _____.

The Bureau, acting through the Secretary of the Interior, agrees to assume control and responsibility of water well, with condition that subsequent use will not restrict operations of lessee and operator and thereby relieves lessee and operator of any further liability for plugging water well.

The lessee and the operator agree to quitclaim all rights to water well to the Bureau in lieu of plugging water well to surface.

It is further agreed by the undersigned that the owners of record title to the above oil and gas lease and the operator for lessee (name) _____ and well number _____, with surety bonds are relieved from liability in connection with water well, effective the date this instrument is signed, for extent of liability for satisfactorily plugging of water well to the surface.

IN WITNESS WHEREOF, the undersigned hereto have executed this instrument

By _____ (signature)	For Lessee (name) _____	(date) _____
-------------------------	----------------------------	--------------

By _____ (signature)	For Operator (name) _____	(date) _____
-------------------------	------------------------------	--------------

EXECUTED AND ACCEPTED BY
BUREAU OF LAND MANAGEMENT

Authorized Officer.
(signature) _____

(date) _____

3160-4 - CONVERSION TO WATER WELL

Format for a Water Well Release--Federal Surface Managed by Another SMA

WATER WELL RELEASE

WHEREAS, that certain Oil and Gas Lease was made and entered into on _____, by and between the United States of America, Lessor, and _____, Lessee, bearing serial number _____; and

WHEREAS, _____, whose address is _____ is the present Lessee of record; and

WHEREAS, said Lease provides that there is reserved by the Lessor all rights pursuant to Section 40 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437, as amended), to acquire casing and lease or operate valuable water wells located on said Lease and lands; and

WHEREAS, _____, as operator has drilled a water well/an oil or gas test well located _____ feet from the _____ line and _____ feet from the _____ line of Section _____ in Township _____, Range _____, said well being located in _____ of the said Section _____, a portion of the above lease, which well appears to contain water of such quality and quantity to be valuable and usable at a reasonable cost for agricultural, domestic, or other beneficial purposes; and

WHEREAS, _____, as lessee, and _____, as operator, desire to release, relinquish, and quitclaim all right, title, and interest in and to said well to the United States of America in lieu of plugging same to surface; and

WHEREAS, the United States of America, acting by and through the _____ desires, pursuant to said Lease and said Mineral Leasing Act of February 25, 1920, as amended, to take over said well with the express understanding and agreement that the taking over of such well will not restrict operations of said lease.

NOW, THEREFORE, for and in consideration of the above grant, the (SMA) _____ assumes all further responsibility for the said well and does relieve the oil and gas lessee, the operator, and the Bureau of Land Management of any future liability insofar as authorized by applicable laws and regulations pertaining to such use.

This instrument, regardless of the date of execution thereof, shall be effective as of _____.

IN WITNESS WHEREOF, the undersigned has executed this Release on this _____ day of _____, 19__.

Accepted _____ (Date) _____ (Lessee/Operator)
With the _____ (SMA) assuming all future responsibility for same, thereby relieving the oil and gas lessee, operator, and the Bureau of Land Management of any future liability for the well.

By _____

(Title)
DEPARTMENT OF _____

(Agency)

3160-4 - CONVERSION TO WATER WELL

Format for Water Well Release--Indian Surface-Federal Minerals

WATER WELL RELEASE

WHEREAS, that certain Oil and Gas Lease was made and entered into on _____, by and between the United States of America, Lessor, and _____, Lessee, bearing serial number _____; and

WHEREAS, _____

are the present Lessees of record; and

WHEREAS, said Lease provides that there is reserved by the Lessor all rights pursuant to Section 40 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437, as amended), to acquire casing and lease or operate valuable water wells located on said Lease and lands; and

WHEREAS, _____, as operator has drilled a water well/an oil or gas test well located _____ feet from the _____ line and _____ feet from the _____ line of Section _____ in Township _____, Range _____, said well being located in _____ of the said Section _____, a portion of the above lease, which well appears to contain water of such quantity to be valuable and usable at a reasonable cost of agricultural, domestic, or other beneficial purposes; and

WHEREAS, _____ as lessees, and _____, as operator, desire to release, relinquish, and quitclaim all right, title, and interest in and to said well to the United States of America in lieu of plugging same to surface; and

WHEREAS, the United States of America, acting by and through the _____ desires, pursuant to said Lease and said Mineral Leasing Act of February 25, 1920, as amended, to take over said well with the express understanding and agreement that the taking over of such well will not restrict operations of said lease.

NOW, THEREFORE, for and in consideration of the premises, the undersigned has released, relinquished, and quitclaimed, and does hereby release, relinquish, and quitclaim unto the United States of America, acting by and through the _____, all right, title, and interest in and to said above described well.

This instrument, regardless of the date of execution thereof, shall be effective as of _____.

IN WITNESS WHEREOF, the undersigned has executed this Release on this _____ day of _____, 19__.

Accepted _____ (Date) _____ (Lessee/Operator)
With the _____ (SMA) assuming all future responsibility for same,
thereby relieving the oil and gas lessee, operator, and the Bureau of Land
Management of any further liability for the well.

(Agency Superintendent) (Area Director)
Bureau of Indian Affairs

3160-4 - CONVERSION TO WATER WELL

Format for a Water Well Release--
Tribal/Allotted Surface-Tribal/Allotted Minerals

WATER WELL RELEASE

WHEREAS, that certain Oil and Gas Lease was made and entered into on _____, by and between _____, Lessor, and _____, Lessee, bearing lease serial number _____; and _____

WHEREAS, _____
_____ are the present Lessees of record; and

WHEREAS, said Lease provides that there is reserved by the Lessor all rights to acquired casing and lease or operate wells located on said Lease and lands, which do not produce oil and/or gas in paying quantities, but which are capable of producing water satisfactory for domestic, agricultural, or livestock use; and

WHEREAS, _____, as operator has drilled a water well/an oil or gas test well located _____ feet from the _____ line and _____ feet from the _____ line of Section _____ in Township _____, Range _____, said well being located in _____ of the said Section _____, a portion of the above lease, which well appears to contain water of such quantity to be valuable and usable at a reasonable cost for agricultural, domestic, or other beneficial other purposes; and

WHEREAS, _____ as lessees, and _____, as operator, desire to release, relinquish, and quitclaim all right, title, and interest in and to said well to the Lessor in lieu of plugging same to surface; and

WHEREAS, the Lessor desires to take over said well with the express understanding and agreement that the taking over of such well will not restrict operations of said lease.

NOW, THEREFORE, for and in consideration of the premises, the undersigned has released, relinquished, and quitclaimed, and does hereby release, relinquish, and quitclaim unto the Lessor, all right, title, and interest in and to said above described well.

This instrument, regardless of the date of execution thereof, shall be effective as of _____.

IN WITNESS WHEREOF, the undersigned has executed this Release on this _____ day of _____, 19__.

Accepted _____ (Date) _____ (Lessee/Operator)
With the _____ (SMA) assuming all future responsibility for same, thereby relieving the oil and gas lessee, operator, and the Bureau of Land Management of any futher liability for the well.

(Agency Superintendent) (Area Director)
Bureau of Indian Affairs

3160-10 - SUSPENSION OF OPERATIONS AND/OR PRODUCTION

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BibliographyAppendices

- 1. Solicitor's Opinion, Suspension of the Operating and Producing Requirements of Onshore Federal Oil and Gas Leases for Environmental Reasons, July 14, 1975
- 2. Solicitor's Opinion, Oil and Gas Lease Suspensions, May 31, 1985

3160-10 - SUSPENSION OF OPERATIONS AND/OR PRODUCTION

.01 Purpose. This Manual Section provides guidelines and procedures for reviewing, processing, approving, and terminating suspensions of operations and/or production (SOP) on onshore Federal (except the National Petroleum Reserve in Alaska) and Indian oil and gas leases, including those within an approved or prescribed plan for unit or cooperative development and operation.

.02 Objectives. The objective of this program is to provide a mechanism for relieving lessees from lease operating and producing requirements under situations beyond the lessee's control.

.03 Authority.

- A. 43 CFR 3103.4-2, Suspension of operations and production.
- B. 43 CFR 3107.2-3, Nonproduction from leases capable of production.
- C. 43 CFR 3165.1, Relief from operating and producing requirements.
- D. 25 CFR 225.32, Duration of leases.
- E. 25 CFR 225.54, Suspension of production; Remedial workover/shut-in.

.04 Responsibility.

A. State Director. The State Director (SD) is responsible for:

- 1. Reviewing and approving SOP's for Federal leases.
- 2. Reviewing SOP's for Indian leases when requested by Bureau of Indian Affairs (BIA)
- 3. Notifying Minerals Management Service (MMS) for suspensions involving a suspension of rental/minimum royalty.
- 4. Assuring that SOP's for Federal leases are timely terminated.
- 5. Advising BIA when diligent remedial workover operations commence and cease on SOP's for Indian leases.

B. District Manager. If delegated, the District Manager (DM) may be responsible for all or any of the responsibilities of the SD. Redlegation of the above responsibilities to the District Manager is greatly encouraged.

3160-10 - SUSPENSION OF OPERATIONS AND/OR PRODUCTION

.05 References.

A. Onshore Oil and Gas Order No. 1, Approval of Operations on Onshore Federal and Indian Oil and Gas Leases (Circular No. 2538).

B. BLM Manual Handbook H-3103-1, Fees, Rentals, and Royalty.

.06 Policy. Under the Mineral Leasing Act (MLA), holders of Federal oil and gas leases have the full primary term to develop the resources subject to their leases. Suspensions, when deemed necessary by the appropriate authority, will be given only in the interest of conservation of natural resources (see Appendix 1) or in a force majeure case, and when the lessee has diligently pursued lease development and has timely filed an application for suspension.

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.1 Background. No suspension of the operating and producing requirements of a lease shall be granted except where the authorized officer directs or consents to a suspension in the interest of conservation of natural resources. No suspension of the operating or producing requirements of a lease shall be granted except where the authorized officer directs or consents to a suspension in a force majeure situation that may include actions taken in the interests of conservation of natural resources.

.11 Tolling of the Lease Term. Section 39 of the MLA provides for a suspension of operation and production, under which the term of the lease shall be extended by adding any such suspension period thereto. Likewise, Section 17(f) of the MLA provides in part that no lease shall be deemed to expire during a suspension of either operations or production. Although there was an uncertainty as to whether suspension under section 17(f) of the Act also tolls (stops) the running of the lease term, the Solicitor has advised that this was indeed the Congressional intent (Appendix 2). Therefore, for leases not in their extended term due to production, a suspension tolls the running of the lease term and adds the period of suspension to the term of the lease.

.12 Waiver of Rental or Minimum Royalty. Section 39 of the MLA provides a suspension of rental or minimum royalty payment requirements during the period of any suspension of operation and production. However, section 17(f) provides no similar suspension of payments during the period of any suspension of operations or of production. The Solicitor has advised that the lessee must continue these payments during the period of suspension under section 17(f), unless the lessee separately qualifies for a waiver, reduction, or suspension of rental or minimum royalty under the first sentence of section 39.

3160-10 - SUSPENSION OF OPERATIONS AND/OR PRODUCTION

.2 Guidelines..21 Suspension--Federal Leases.

A. Types of Suspension. The interpretation of the requirements related to suspensions are largely based on the Solicitor's Opinion in Appendix 2, which should be studied in its entirety. Note that the interpretation contained in that Appendix should be applied only to suspensions that are directed or approved after the date of the memorandum.

1. Suspension of Operations and Production. Suspension of operations and production under Section 39 of the MLA suspends both operations and production activities. Therefore, the lessee is denied all beneficial use of the lease. Such suspension may be granted, even though the lease does not contain a producible well. The suspension may be granted by the authorized officer only in the interest of conservation of natural resources. Suspension of operations and production tolls the running of the term of a lease and adds the period of suspension to the term of the lease. Any payment of rental or of minimum royalty also shall be suspended during the period of suspension of operations and production. Activities designed to benefit the lease (operations or production) may not be commenced or continued on the lease while the lease is so suspended. This requirement applies to Federal oil and gas leases regardless of the surface ownership. However, casual uses that do not require a permit under the lease (e.g., survey and staking) or activities that may be conducted without the need for a lease (e.g., seismic exploration) may be conducted during the period of suspension. Furthermore, there is the obvious exception for operations that consist strictly of routine maintenance in order to prevent damage to wells but shut in as a result of the suspension. Such operations do not constitute beneficial use of the lease. When all operations and production are suspended, the commencement of operations (as defined in the Glossary) or production shall be regarded as terminating the suspension and the suspension of the rental and minimum royalty payment. However, if necessary, the lessee may then apply for a suspension of operations or production, whichever would be appropriate.

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2. Suspension of Operations. Suspension of operations under Section 17(f) of the MLA suspends the operational obligation of the lessee. Suspension of operations may be directed or consented to by the authorized officer in cases where a lessee is prevented from operating on the lease, despite the exercise of care and diligence, by reason of force majeure, that is, by matters beyond the reasonable control of the lessee. A suspension of operations tolls the running of the term of the lease and adds the period of suspension to the term of the lease, but does not suspend the payment of rental or minimum royalty.

3. Suspension of Production. Suspension of production under Section 17(f) of the MLA suspends the production obligation of the lessee. Suspension of production may be directed or consented to by the authorized officer in cases where a lessee is prevented from producing from the lease, despite the exercise of due care and diligence, by reason of force majeure, that is, by matters beyond the reasonable control of the lessee. A lessee may conduct operations during a suspension of production, but the lease must be producible before a suspension of production may be granted. No lease shall be deemed to expire during the suspension of production. However, it does not suspend the payment of rental or minimum royalty. ~~Suspension of production is unnecessary in most cases, since the ability of a lease to produce in paying quantities, regardless of whether or not it is actually producing, will generally prevent the lease from expiring.~~ An exception to this is that 43 CFR 3107.2-3 requires production from a lease containing a well(s) that is specifically bound by a written order to produce; unless, of course, a suspension of production is granted. It may be appropriate under certain extraordinary circumstances as determined by Washington Headquarters, such as the sharply declining oil prices in early 1986, to grant a suspension of production to a producible lease (the lease may be either in its primary or extended term) in order to avoid the premature abandonment of the wells and resulting loss of recoverable reserves. As nationwide unique situations develop, Headquarters will issue appropriate guidance. If part of the lease is subject to drainage, the protective well on the lease must continue to produce in order to protect the Federal or Indian interests. In that case, granting of a suspension of production for the lease would not be appropriate.

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B. Circumstances That Normally Warrant Suspensions. The following examples illustrate circumstances under which granting of suspensions may be appropriate. Each case must be considered on its merit.

1. Suspension of Operations
and Production

Suspension of Operations

BLM orders a suspension of all operational activities on a lease to protect natural resources (e.g., delay oil and gas drilling to allow extraction of coal).

Action of other Federal or State agencies that prevent commencement or continuation of operations.

Operational proposal was denied by BLM for reasons of conservation of natural resources, but the likelihood of denial was not specified as a lease term or stipulation.

Extraordinary weather conditions, that is, conditions that are not reasonably expected, or that are more severe than reasonably expected, for the location and time of year, or other catastrophe that prevents roads construction or drilling.

BLM or other surface managing agency (SMA) initiates environmental studies (Environmental Assessment/Environmental Impact Statement/Resource Management Plan) that prohibit beneficial use of the lease(s).

Inability to conduct cultural resources or threatened and endangered species survey due to extraordinary weather conditions.

BLM or other SMA needs more time to arrive at the decision on the proposal.

Litigation over title to lease or surface access being diligently pursued by lessee.

Environmental litigation related to issuance of leases or BLM lease management related issues, and meanwhile no operational proposal can be approved.

Operational proposal was denied by BLM for reasons other than for conservation of natural resources, but the likelihood of denial was not specified as a lease term or stipulation.

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2. Determining the Type of Suspension. It is not always clear whether a particular application should be considered for suspension of operations and production or for suspension of operations. The major distinction between the two suspensions should be based on judicious determination as to whether or not the hardship is generated by the action of, or need by, the BLM for conservation of natural resources, rather than situations that are simply beyond the control of the lessee/operator. No suspension of operations and production may be granted for the latter situation. As actions taken in the conservation of natural resources are a type of force majeure situation, suspension of operation may be granted for any of the circumstances described under the above column for Suspension of Operations and Production.

C. Circumstances That Normally do not Warrant Suspensions. Examples of cases where a suspension should not normally be granted are: (1) Applications for Permit to Drill (APD's) submitted incomplete or untimely (less than 30 days before lease expiration); (2) spacing exceptions untimely applied for; (3) the lessee is merged or taken over; (4) the lessee files bankruptcy; (5) the lessee is involved in farm in/out agreements; (6) the lessee fails to obtain a rig when proper rigs are available in the open market; (7) proposed operations are not on the lease and unconnected to the suspension proposal by any approvable Federal agreement; (8) restrictions on the proposed activity were clearly specified in the lease term or stipulation; and (9) weather conditions, although severe, are reasonably expected for the location and time of year.

.22 Suspension--Indian Leases. According to 25 CFR 225.54, the Secretary (defined in this case as the BIA Superintendent) may authorize suspension of producing requirements in the extended contract term whenever it is determined that remedial operations are in the best interest of the Indian mineral owner, provided that such remedial operations are conducted with reasonable diligence during the period of nonproduction. Any such suspension shall not relieve the operator from liability for the payment of rental and minimum royalty or other payments due under the terms of the contract. An application for permission to suspend producing requirements for economic or marketing reasons on an oil and/or gas well capable of commercial production which is submitted to the Secretary after the expiration of the primary term of the contract must be accompanied by the written consent of the Indian mineral owner and a written agreement executed by the parties setting forth the terms pertaining to the suspension of production.

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.3 Procedures..31 Federal Leases.

A. Filing of Applications. Suspensions apply to the entire leasehold and not just to any portion thereof. The suspension application must be preceded by a request from the operator to conduct leasehold operations.

1. Parties Executing the Application. The application for suspension must be executed by all lessees of record or, in the case of an approved Federal unit, by the unit operator on behalf of committed tracts or by all lessees of such tracts. Suspensions executed only by the holders of operating rights or by a designated operator of a single lease or communitization agreement are not valid. A lessee may authorize another party to act on the lessee's behalf by means of a power of attorney.

2. Other Requirements. All suspension applications must be filed in triplicate with the authorized officer prior to the lease expiration date. An oral request for a suspension made prior to the lease expiration date and followed by a written request after the lease expiration date does not meet the requirements of the regulations.

3. Documentation. The applicant requesting the suspension must submit thorough documentation of reasons for requesting a suspension. This should include evidence that activity has been attempted on the lease (such as filing a Notice of Staking or an APD) and the activity has been stopped by actions beyond the operator's control.

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B. Processing of Applications. Upon receipt of a suspension application, the authorized officer must review the application and decide whether to approve or disapprove the application.

1. Background Information. To facilitate the review, the following should be compiled and retained in the case file: Land description; expiration date of lease; present lessee(s); and any special lease stipulations. In cases where the reason for filing for a suspension on a lease applies to other leases not included in the suspension application (e.g., other leases in the same unit or wilderness study area), the information should be recorded so that suspension applications for the other leases may be speedily considered when applications are received.

2. Late Filing Application. A suspension application must be denied if it is received after the lease expiration date. A suspension application received prior to the lease expiration date but related to an APD that was filed less than 30 days prior to the lease expiration date should normally be denied unless: (1) Unusual circumstances are involved; (2) the authorized officer was able to process the APD in a shorter time; or (3) necessary environmental reviews precluded completing processing earlier. Examples of such denial letters are shown as Illustrations 1 and 2.

3. Approval/Disapproval. For those applications timely filed, the authorized officer reviews and evaluates the documented reasons for the request and the background information. The authorized officer should discuss the request with the appropriate surface managing agency if the requested suspension is on land managed by that agency. If the reasons for the request are acceptable and justify a suspension, the application will be approved. Illustration 3 is an example of a letter to the applicant granting a suspension. Copies of the approval letter must be sent to the State Office (Adjudication Unit), Minerals Management Service, within 5 working days and the local office of the surface managing agency where applicable. If a disapproval is concluded, the letter of notification of disapproval must inform the applicant of the right to request a technical and procedural review and appeal in accordance with 43 CFR 3165.3 and 3165.4, respectively.

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C. Effective Date and Termination of Suspensions.

1. Effective Date. Suspensions are normally effective the first day of the month in which the application is filed. However, suspensions may become effective on any day specified by the authorized officer.

2. Termination. The authorized officer should grant the suspension for an indefinite term, rather than for a definite term, because it is difficult to predict the period of delay. The suspension terminates automatically:

a. If operations (see Glossary of Terms) or production is resumed.

b. On the first day of the month in which the lessee is notified in writing of a decision not to approve the APD.

c. On the first of the month in which actual operations are commenced after the APD has been approved. If the lessee has not timely commenced operations within the time specified as a condition of approval (usually 30 days after all necessary approvals of APD have been granted), the suspension terminates on the first of the month in which the time specified for commencement of operations terminates.

3. Monitoring the Suspension. The authorized officer shall monitor the suspension on a regular basis to determine if conditions for granting the suspension are extant, and should terminate the suspension when it is deemed no longer necessary. When the authorized officer terminates such a suspension, the effective date should normally be the first day of the second month following the month in which the termination notice is dated. Illustration 4 is an example of a letter terminating a suspension. Copies of the termination letter must be sent to the State Office (Adjudication Unit), Minerals Management Service, within 5 working days and to the local office of the surface managing agency, where applicable.

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4. Rental and Minimum Royalty. Rental and minimum royalty payments shall be suspended during any period of suspension of operations and production directed or assented to by the authorized officer beginning with the first day of the lease month on which the suspension of operations and production becomes effective; or if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. Rental and minimum royalty payments shall resume on the first day the termination of the suspension of operations and production is effective. Where rentals are creditable against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty due under the terms of the lease.

D. Coordination. The authorized officer is responsible for promptly notifying the State Office Adjudication staff in accordance with Handbook H-3103-1 for appropriate lease case file processing.

.32 Indian Leases. If requested by BIA, the authorized officer will timely review the technical aspects of a suspension involving Indian leases and provide BLM evaluation or recommendation to BIA.

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.4 Specific Situations.

.41 Secretary's Potash Area (Southeastern New Mexico). The concurrent development by the oil and gas and potash industries in the area designated as the Secretary's Potash Area is subject to specific Secretarial instructions. Several Secretarial Orders have been issued, and Departmental Decision A-28449 granted a suspension in the interest of potash conservation on an oil and gas lease in the Potash Area, which had no producing wells.

.42 Other Minerals. Situations similar to the Potash Area involving other minerals are likely to arise and require the establishment of development priorities or first development rights. (Normally, the first developer has priority; however, because of various lease stipulations and other factors, this is not always true.) When situations of this type result in denial of an oil and gas lessee's right to develop a lease, a suspension of operations and production is justified. Applications should be processed as described in this Manual Section.

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Glossary of Terms

-F-

force majeure: an unexpected and disruptive event operating to excuse a lessee from a lease contract, such as these caused by strikes; acts of God; Federal, State or municipal laws or agencies; unavoidable accidents; uncontrollable delays in transportation; inability to obtain necessary materials or equipment in the open market despite diligent effort; or other matters beyond the reasonable control of the lessee.

-I-

interest of conservation: the protection of all natural resources, subsurface and surface. As used in this Manual Section, the term includes the preparation of environmental studies made to comply with the National Environmental Policy Act (42 U.S.C. 4321-4347). An action taken in the interest of conservation is also a type of force majeure situation.

-O-

operations: all beneficial use of the lease, including construction of access roads on the leased land, site preparation, well repair, drilling or similar activity.

-P-

production in paying quantities: lease production of oil and/or gas of sufficient value to exceed direct operation costs and the cost of lease rentals or minimum royalty.

-S-

surface management agency: a Federal agency, other than BLM, having jurisdiction and responsibility for protecting and managing the surface resources and uses of certain public land that has been leased for oil and gas development.

suspension: a temporary abrogation of a lessee's obligation to perform specific functions stipulated in Federal oil and gas lease terms, regulations, etc., due to the fact that a suspension stops the running of the term of the lease.

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Example of a Letter Denying a Suspension
Because of Expiration of Lease Term

DECISION

(Date)

Gentlemen:

Your application for suspension of operations and production on lease
_____ was received _____.

Our records indicate that your application for a permit to drill on this
lease was submitted to the _____ Office on _____,
_____ days after the lease expiration date of _____.

Since the lease terms automatically expired prior to your submittal of the
application for suspension, there is nothing in existence for the Bureau of
Land Management to suspend. Therefore, your request for suspension of
operations and production is denied.

You may request a technical and procedural review of any instructions,
orders, or decisions issued by the Bureau of Land Management as described in
43 CFR 3165.3, or you may appeal pursuant to 43 CFR 3165.4 and 43 CFR 4.400,
either directly or following the technical and procedural review. Copies of
these regulations are enclosed.

Sincerely yours,

Authorized Officer

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Example of a Letter Denying a Suspension
Because of Untimely Filing of Application

DECISION

(Date)

Gentlemen:

Your application for suspension of operations and production on lease
_____ was received _____.

Our records indicate that your application for a permit to drill on this
lease was submitted to the _____ Office
on _____, _____ days prior to the lease expiration
date of _____.

As you have been informed by our Office and Onshore Oil and Gas Order No. 1,
"Approval of Operations on Onshore Federal and Indian Oil and Gas Leases,"
an application for a permit to drill filed less than 30 days prior to the
lease expiration date may not allow adequate time for processing. Your
drilling application is not considered timely filed. Therefore, your
request for suspension of operations and production is denied.

You may request a technical and procedural review of any instructions,
orders, or decisions issued by the Bureau of Land Management as described in
43 CFR 3165.3, or you may appeal pursuant to 43 CFR 3165.4 and 43 CFR 4.400,
either directly or following the technical and procedural review. Copies of
these regulations are enclosed.

Sincerely yours,

Authorized Officer

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Example of a Letter Granting a Suspension

(Date)

Dear _____:

Your letter of _____ on behalf of _____ requests that a suspension of operations and production be granted for _____ of the Federal leases committed to the _____ unit agreement, should environmental considerations prevent the timely commencement of the initial unit well. Said leases are listed in Exhibit A, attached.

The _____ unit agreement was approved and became effective on _____, and the application for a permit to drill the initial unit well was filed on _____. The Forest Service subsequently advised that it would not be able to complete its environmental study and approve the well location before _____. Until the Forest Service has completed its tasks in this regard, the BLM cannot approve the application for a permit to drill the initial unit well.

Therefore, pursuant to the provisions of 43 CFR 3103.4-2, approval of your application for suspension of operations and production on the leases shown in Exhibit A is granted. The suspension is effective _____, the first day of the month in which the application was filed, and shall remain in effect for an indefinite term. The suspension will terminate upon commencement of operations, approval or denial of the application to drill, or when the authorized officer deems the suspension is no longer in the interest of conservation. The approval of this suspension does not suspend the filing requirements of Form 3160-6, "Monthly Report of Operations." In addition, the 5-day reporting requirements in 43 CFR 3162.4-1(c) must be complied with.

Sincerely yours,

Authorized Officer

cc: State Office (Adjudication Unit)
Minerals Management Service
Local office of the surface managing agency, where applicable

NOTE: When only one or a few leases are involved, the lease numbers may be incorporated in the letter rather than be attached.

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Example of a Letter Terminating a Suspension

(Date)

Dear _____:

By letter dated _____, this office approved a suspension of operations and production effective _____ for an indefinite term for Federal leases _____.

This suspension terminated effective _____ due to (state reason, for example, commencement of operations on _____/the approval on _____ of an application for permit to drill/the determination that the suspension is no longer in the interest of conservation).

Sincerely yours,

Authorized Officer

cc: State Office (Adjudication Unit)
Minerals Management Service
Local office of the surface managing agency, where applicable

3160-10 - SUSPENSION OF OPERATIONS AND/OR PRODUCTION

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INTERIM GUIDANCE

United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

JUL 14 1975

Memorandum

To: Director, Geological Survey *Ugm*

From: Assistant Solicitor--Minerals
Division of Energy and Resources

Subject: Suspension of the operating and producing requirements
of onshore Federal oil and gas leases for environmental
reasons.

You have asked about the authority of the Department to direct or assent to suspensions of operations or production or both while environmental studies are being made. This authority has been exercised in the past, most notably with respect to the suspension of operations and production on July 7, 1971, on 163 Federal oil and gas leases in the Ocala National Forest, Florida. That suspension was extended from time to time through July 22, 1974, for the express purpose of allowing sufficient time for the Department to determine whether additional special terms and conditions should be imposed to prevent damage to the environment within that national forest. Ample authority existed for the action of the Secretary in making that suspension. Section 39 of the Mineral Leasing Act, as amended (30 U.S.C. § 209), states that: "In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of this Act, . . . the term of such lease shall be extended by adding any such suspension period thereto." Through the years the Department has interpreted section 39 as authorizing the Secretary to suspend operations and production, or either, in the interest of conservation.

The term "interest of conservation" has probably been interpreted differently through the years. It should be noted that in the first sentence of section 39 the phrase is "conservation of natural resources" and the normal reading of the second sentence which I have quoted above is that the simple term "conservation" as used there refers back to the first sentence and thus means conservation of all natural resources. There is no indication in section 39 that a suspension is to be merely

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for the conservation of the resources subject to the lease or even of the resources subject to the Mineral Leasing Act. Instead the normal reading is that it should be for the conservation of all natural resources.


The term "natural resources" is not defined in the Mineral Leasing Act at any point. In Gulf Oil Corporation v. Morton, 493 F.2d 141 (9th Cir. 1974), the Court of Appeals for the Ninth Circuit concluded that "natural resources" as used in the Outer Continental Shelf Lands Act (43 U.S.C. §§ 1331-1343) should be interpreted as meaning all natural resources and not just minerals. As used in that statute, the court stated, it incorporated the definition of "natural resources" in section 2(e) of the Submerged Lands Act (43 U.S.C. § 1301(e)). In the Submerged Lands Act the term is defined to include minerals and marine animal and plant life. Obviously the OCS Act and the Submerged Lands Act have no direct connection with section 39, but I believe that the Gulf case shows the type of definition which a court would give to the term "natural resources". Section 102(1) of the National Environmental Policy Act (NEPA) (42 U.S.C. § 4332(1)) directs that to the fullest extent possible the laws of the United States should be interpreted and administered in accordance with the policies set forth in NEPA. The policies set forth in NEPA require a wise use and protection of the environment and of all the resources of the environment. These policies are said to be to encourage the "productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation". 42 U.S.C. § 4321. The preparation of environmental impact statements comes within the scope of those purposes, and, therefore, section 102(1) of NEPA provides a positive direction that section 39 is to be interpreted in a manner that is most consistent with protection of the environment and the preparation of environmental studies. It is possible to interpret "interest of conservation" as including the preparation of environmental studies, and, since this interpretation is possible under the requirements of NEPA, it is an interpretation which should now be adopted. Accordingly, it seems clear that the Secretary of the Interior is authorized to suspend operations and production for the preparation of environmental impact studies.

If the Secretary has this authority, the next question is inevitably whether he is under a duty to exercise this authority. It seems evident that it is the intention of the Congress that, where it is in the interest of conservation that operations should be prevented for a time, the lessee should not be deprived of any of the full term of his lease. When section 39 was added to the Mineral Leasing Act in 1933, the long delays for environmental studies which we now experience were

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not expected but, nevertheless, Congress provided the means by which the Secretary could see to it that, despite the long delays inevitable in the compliance with NEPA procedures, lessees would not lose any of the time to which they are entitled. Congress has determined that the holder of a noncompetitive oil and gas lease should have a full ten years in which to develop the resources subject to his lease. The Congress has also directed the Secretary to engage in lengthy environmental studies. The only way in which these two purposes of Congress can be effectively reconciled is by authorizing suspension and consequent extension. Accordingly, it is my view that the Department ought in all cases, where the preparation of an environmental impact statement or other environmental studies is required, to suspend operations and thus assure the lessee that he will receive an extension comparable to the period during which operations are prohibited and thus not be deprived of any of the development period which the Congress has granted him.

I recognize that in some circumstances, such as when a lessee has failed to take any action until the last two or three months of his lease term or perhaps even the last week and then requests a suspension when he submits a drilling plan, his equitable rights will not be readily evident. Nevertheless I think it only proper that, where drilling plans are submitted and where approval must be delayed for environmental studies, suspensions and resulting extensions be granted.


Frederick N. Ferguson

Enclosures

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INTERIM GUIDANCE
United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

BLM.ER.0336

May 31, 1985

Memorandum

To: Director, Bureau of Land Management

From: Frank K. Richardson, Solicitor

Subject: Oil and gas lease suspensions

You have requested an interpretation of the lease suspension provisions set out in sections 39 and 17(f) of the Mineral Leasing Act of 1920 (Act), 30 U.S.C. §§ 209 and 226(f). You have also asked what effect, if any, our interpretation may have on leases which were suspended in a manner contrary to this memorandum, particularly cases where lease activity may have been allowed during the period of suspension.

SUMMARY

We conclude as follows:

- (1) A suspension of operations and production under section 39, which by law extends the term of the lease for the period of suspension, must be a suspension of both operations and production such that the lessee has been denied beneficial use of the lease by the Department in the interest of conservation. Lease activity (operations or production) is beneficial use and may not be allowed to commence or continue while the lease is suspended.
- (2) Suspensions of operations or of production under section 17(f) toll the running of the lease term but do not suspend the payment of rental or minimum royalty.
- (3) Previous suspensions that were granted, but where the Department allowed lease activity during the period of suspension, were made in the absence of clear legal guidance to the contrary. One was based on the surname of the Solicitor. In such situations, later advice that the action taken is

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not in accordance with a proper interpretation of the statute should only be given prospective application. However, in the future, suspensions should only be granted or directed in a manner consistent with the law as interpreted in this memorandum.

BACKGROUND

The Act prescribes that oil and gas leases be issued for a primary term (5 years competitive, 10 years noncompetitive) and for so long thereafter as oil or gas is produced in paying quantities. 30 U.S.C. § 226(e). The Act further provides that a lease will not expire for lack of actual production if it contains a well capable of producing oil or gas in paying quantities. 30 U.S.C. § 226(f). In addition, the Act allows various extensions beyond the primary term for specific reasons and specific periods, such as two years if diligent drilling operations are being conducted at the end of the primary term. 30 U.S.C. § 226(e); also 30 U.S.C. §§ 187a, 226(g), 226(j). Thus, a lessee seeking to preserve a lease in the absence of one of the statutory extensions referred to in the previous sentence must be producing in paying quantities from the lease at the end of a primary or extended term, or have a well capable of production in paying quantities on the lease at the end of the primary or extended term.

Section 17(j) of the Act, 30 U.S.C. § 226(j), allows leases to be combined under unit, cooperative or communitization agreements. Leases committed to these agreements are subject to the same requirements as regular leases, that is, the leases expire at the end of the primary term unless they qualify for a statutory extension or unless actual production or a well capable of production in paying quantities exists at the end of the primary or extended term. The difference is that production, or a well capable of production, under the terms of the unit, cooperative or communitization agreement satisfies the requirements for all committed leases regardless on which lease (or non-federal property) the well is located. 30 U.S.C. § 226(j).

The Act provides two exceptions to the prescribed lease term -- section 17(f), 30 U.S.C. § 226(f), and section 39, 30 U.S.C. § 209. Section 17(f) provides in part: "No lease shall be deemed to expire during a suspension of either operations or production." Section 39 of the Act provides in part:

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In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of this Act, any payment of acreage rental or of minimum royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production; and the term of such lease shall be extended by adding any such suspension period thereto. The provisions of this section shall apply to all oil and gas leases issued under this Act, including those within an approved or prescribed plan for unit or cooperative development and operation.

In some instances, an applicant for suspension will seek to construct roads on the lease, prepare a well site, or conduct well repair operations during the suspension. This would give the lessee more time to initiate actual drilling or to complete a well before the lease would otherwise expire after the suspension is lifted. Over the past several years, the propriety of allowing such lease activity has been discussed with this office but we have issued no written opinion. Two such cases have generated some controversy.

True Oil Company (True), operator of the Deadman Unit, and Arco Exploration Company (Arco), operator of the Rock Creek Unit, sought suspensions of operations and production under section 39 for the leases committed to their respective units. The applicants further requested that they be authorized to continue certain repair and drilling activities during the period of the suspensions. A detailed chronology of the facts of each case has been prepared by the Bureau of Land Management (BLM); rather than repeat all the facts, a brief summary is set out below.

Each operator had encountered severe difficulty in drilling a unit well and had spent considerable time attempting to overcome down-hole problems encountered during drilling operations. Both had expended large amounts of money in their drilling activity. Both stated as a basis for the suspension that they wished to preserve the affected leases for the additional period of time necessary to complete the unit wells then being drilled. Both operators had very little time remaining in the extended terms of leases critical to the unit within which to complete wells capable of production in paying quantities. Both, therefore, sought permission to correct the down-hole problems and to finish drilling during the period of suspension. In both cases the suspensions were granted along with authorization to continue lease activity.

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True's application was the first received. After several months of discussion with True and within the Department, the BLM prepared a memorandum recommending that the application be granted and lease activity be allowed which was surnamed by then Solicitor Coldiron.^{1/} Subsequently, when BLM processed

Arco's application, it did not seek review by the Office of the Solicitor but merely granted the suspension, allowing lease activity to continue on the basis of the precedent set in the True suspension.

DISCUSSION

1. Lease Activity During Suspension of Operations and Production

As described above, the Act specifically establishes the primary term of an oil and gas lease and provides for the extension of the term under specific circumstances. Although section 39 refers to extending the term of a lease, it must be remembered that this "extension" differs from other extensions in two important respects. It is designed to correspond to, or make up for, the suspension period, in recognition that: (1) no time elapsed from the lease term during the suspension; and (2) no rental or minimum royalty was due during the suspension of all operations and production. To avoid confusion and to clarify the difference in types of "extensions", we will refer to section 39 extensions as "tolling the running of the lease term."

^{1/} True filed a request for a retroactive suspension to give it lease extensions for the period of time spent in re-covering drill pipe lost in the hole. BLM denied the request in October 1982. In November 1982, True reinstated its request. The Office of the Solicitor advised BLM that a retroactive suspension might be permissible: if True had been denied beneficial use of its lease, it might be possible to extend the lease term for the period of time that beneficial use was previously denied. This advice was consistent with prior Departmental decisions. E.g., Jones-O'Brien, Inc., 85 I.D. 89 (1978). However, no conclusion concerning the propriety or the effect of the well repair and drilling operations during the proposed period of suspension was communicated to BLM prior to the surname by Solicitor Coldiron on the BLM recommendation.

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Prior to the enactment of section 39 in the Act of February 9, 1933, 47 Stat. 798, the Secretary could use his general supervisory authority over the public lands to order the suspension of operations and production, but he lacked the authority to toll the running of a lease term. Lessees owning suspended leases, although they could not produce from or otherwise use their leases, were forced to continue rental payments. E.g., Maurice M. Armstrong, 49 L.D. 445 (1923); Ralph A. Shugart, 51 L.D. 274 (1925). Congress recognized this situation as one where the lessee, during the period of suspension, had "but a paper title the legal use of which is suspended." S. Rep. No. 812, 72d Cong., 1st Sess. 3 (1932). Both the House and Senate reports relied upon this inequity--denial of beneficial use to the lessee because no operations or production were allowed--to provide a justification for tolling the running of the term of the lease and suspending rentals.^{2/} S. Rep. No. 812, supra at 3; H.R. Rep. No. 1737, 72d Cong., 1st Sess. 3 (1932). In 1935, Congress changed the term of oil and gas leases from a fixed period with renewal, under which production was not necessary to continue a lease beyond its initial term, to a fixed period and "for so long thereafter as oil or gas is produced in paying quantities." Thus, after 1935, a suspension which did not toll the lease term had the added adverse consequence of potential lease expiration.

Congress remedied the inequity by giving the Secretary the authority to toll the running of the term of a lease accompanied by a suspension of rental for the period of time that he suspended operations and production, although it phrased the authority as a directive to extend the term of the lease by the period of suspension. The extension would cover the period that the lessee was denied beneficial use of its lease by the Department in the interest of conservation. A lessee who is allowed to continue operations during a "suspension" is not being

^{2/}Suspension of minimum royalty was added in 1946 when annual payment of minimum royalty (one dollar per acre) was added to section 17 of the Act. Act of August 8, 1946, 49 Stat. 676.

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denied beneficial use of its lease by the Department, even though no rental or minimum royalty would be due, the lease term would be tolled, and the lessee would be given an extension of the lease. Although the Secretary has the authority to issue regulations and to do all things necessary to carry out the purposes of the Act, 30 U.S.C. § 189, this general authority has never been construed to allow alteration of specific statutory requirements. Solicitor's Opinion M-36779 (Supp.), 92 I.D. (1985)(signed August 13, 1984). Congress has provided specific primary terms and has allowed extensions of those terms for specified reasons. During these periods, the lessee has the right of beneficial use consistent with the terms and conditions of the lease. Section 39 cannot be used to expand the actual period beneficial use granted a lessee beyond that prescribed by Congress, no matter how justified such an expansion appears in a given case. Section 39 can only serve to postpone the period of beneficial use in order to preserve the length of this use specified by the Act.

In behalf of its request for suspension, True submitted to the Department an argument which relied in part on American Resources Management Corp., 40 IBLA 195 (1979),^{3/} to support its request for a force majeure extension of the leases under the provisions of section 39 and the unit agreement. In American Resources, the unit operator had been unable to complete a well capable of production in paying quantities despite conducting well operations up to the date of lease expiration. The operator subsequently requested suspensions under the unavoidable delay authority set out in section 25 of the standard unit agreement. 43 C.F.R. 3186.1. In discussing this argument, the Board of Land Appeals misleadingly refers to the regulations implementing section 39 of the Act and to the Jones-O'Brien, Inc., 85 I.D. 89 (1978), decision which interprets section 39 of the Act. Although the Board rejected the operator's argument because the suspension request was not filed prior to lease expiration, these references leave the implication that had the request been timely filed, the nonproducing leases could have been suspended under section 25 of the unit agreement, the terms of the leases could have been extended past the expiration date by the period of suspension, and well operations could have continued during the period of suspension.

^{3/}The suit for judicial review of this administrative decision was remanded to the Board of Land Appeals by stipulation of the parties in American Resources Management Corp. v. U.S. Department of the Interior, Civil No. 77-0362 (D. Utah April 28, 1982). On remand, it is docketed as IBLA 82-797. A hearing has been held and the Administrative Law Judge has submitted a recommended decision to the Board. Neither the recommended decision nor the exceptions filed by appellant raise the issue discussed above.

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This implication is incorrect. A unit agreement requires, among other things, that wells be drilled at specific time intervals until discovery and mandates contraction of the unit to participating areas five years after the effective date of the initial participating area "unless diligent drilling operations are in progress" on lands not then entitled to be in a participating area. Section 25 of the unit agreement allows suspension of all "obligations under the agreement requiring the unit operator to commence or to continue drilling or to operate or to produce unitized substances" (emphasis added) when the unit operator is prevented from doing so for reasons beyond his control, that is, for unavoidable delay. However, neither section 25 nor other parts of the unit agreement alter the underlying lease term that will expire if the operator is not diligently drilling at the end of the primary term, or has not completed a well capable of production in paying quantities prior to expiration of leases committed to the unit. In fact, the unitization provisions of the Act, 30 U.S.C. § 226(j), require a discovery of oil or gas under the terms of the unit agreement prior to lease expiration. Section 25 only relieves the operator from compliance with unit drilling, operating and producing requirements. In the absence of production or of a well capable of production, the operator must still obtain a section 39 suspension, and must comply with the requirements of section 39, to prevent leases from expiring while he is excused from unit requirements. The Board in American Resources partially noted this distinction when it stated that "the Secretary may suspend only in the interests of conservation" under the section 39 regulations, despite the much broader suspension authority for unit drilling, operating and producing requirements in section 25 of the unit agreement. 40 IBLA at 199. Since the Board did not need to address the further question of operations while a lease is under a section 39 suspension, this confusion has resulted.

We conclude that a "suspension of operations and production" under section 39 of the Act means just that--no operations are allowed and no production is allowed. 4/ Section 39 was enacted

4/ There is the obvious exception of operations necessary to maintain wells capable of production in paying quantities but shut in as a result of the suspension. Such operations do not constitute beneficial use of the lease. To conclude otherwise would be contrary to the statutory purpose of "in the interest of conservation." In addition, activity which may be conducted without the need for a lease, such as seismic exploration, may be conducted during a period of suspension under applicable permit requirements. Similarly, casual use which does not require a permit under the lease, such as survey and staking work, may be conducted during a period of suspension.

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to provide extraordinary relief when lessees are denied beneficial use of their leases. No Congressional statement or Departmental precedent recognizes section 39 as granting a lessee relief from lease expiration while at the same time allowing the lessee to conduct operations he should have completed during the primary term or the extensions authorized by the Act. Therefore, if a lease is suspended under section 39 of the Act, the lessee may not conduct activity on the leased lands which would otherwise be beneficial use authorized under the terms and conditions of the lease.

2. Suspensions under section 17(f)

You have also asked us to analyze whether there is any difference between suspensions granted under section 39 and suspensions granted under section 17(f). Because the suspension provision contained in the second sentence of section 17(f) is silent as to the effect on the lease of the suspension (other than to prevent expiration), you specifically ask whether a section 17(f) suspension tolls the lease term and extends the lease for the period of suspension and whether a section 17(f) suspension also suspends rental and minimum royalty. Moreover, the question was asked whether section 17(f) may be used to suspend production on a lease while allowing operations to continue.

Section 17(f) was added to the Act in 1954 principally to provide relief for lessees who have a well capable of production but are not actually producing and to expand the then-existing provision for relief from lease expiration when production ceases but drilling operations are being conducted by allowing 60 days for diligent drilling or reworking to commence to reestablish production. Act of July 29, 1954, 68 Stat. 583; S. Rep. No. 1609, 83d Cong., 2d Sess. 2 (1954). Congress also added the suspension provision: "No lease shall be deemed to expire during a suspension of either operations or production" (emphasis supplied). The language of section 17(f) differs from section 39, in addition to the scope of activity suspended, in three important elements: (1) it does not specifically toll the lease term; (2) it does not specifically suspend rental and minimum royalty payments; and (3) it provides no standard under which to grant suspensions. Compare 30 U.S.C. § 226(f) with 30 U.S.C. § 209. To understand what Congress intended, we turn to the history of section 17(f).

This suspension language, along with a similar suspension of rental payments, was originally added to section 17 by the Act of August 21, 1935, 49 Stat. 676:

Provided further, That in the event the Secretary of the Interior shall direct or shall assent to the suspension of operations or of production of oil or gas under any such

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lease, any payment of acreage rental as herein provided shall likewise be suspended during the period of suspension of operations or production:

* * * * *

Provided, That no such lease shall be deemed to expire by reasons of suspension of prospecting, drilling, or production pursuant to any order or consent of the said Secretary:

The legislative history of the 1935 law provides no explanation for these provisions nor does it explain their relationship to section 39, which had been added two years earlier. Congress deleted both quoted provisions of the 1935 amendment to section 17 in the Act of August 8, 1946, 49 Stat. 676, as part of a consolidation of various relief provisions in section 39. S. Rep. No. 1392, 79th Cong., 2d Sess. 3 (1946).

The committee reports on the 1954 legislation quote with approval the following BLM analysis of the suspension language:

Under existing law and interpretation by the Department, where operations and production are suspended, that period is added to the term of the lease, but not so if either operations or production is suspended. The proposed change in paragraph 2 of section 17 [now section 17(f)⁵] would remedy this situation and have the same effect if relief is granted for operations alone, or for production alone, as it now has when relief is granted for suspension of both operations and production.

S. Rep. No. 1609, 83d Cong., 2d Sess. 3 (1954); H.R. Rep. No. 2238, 83d Cong., 2d Sess. 3 (1954).

Congress thus thought that the stay of lease expiration contained in section 17(f) would also toll the running of the lease term as in section 39. If the lease term were not tolled, some suspensions would be meaningless. For example, if operations are suspended and the suspension lasts past the end of the primary or extended term of a lease in the absence of a well capable of production, there would be no time left to complete a well when

⁵/ Section 17 was subdivided into its current paragraphs by the Mineral Leasing Act Revision of 1960, 74 Stat. 790. Minor wording changes were made to the first and third sentences of section 17(f) but the second sentence, containing the suspension provision, was not altered.

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the suspension is lifted. The lease would expire for lack of production. Congress could not have intended this absurd result when it enacted a relief provision. The committee reports clearly reflect Congressional intent that a section 17(f) suspension tolls the running of the lease term and adds the period of suspension to the term of the lease. You should amend 43 C.F.R. 3103.4-2(e) to be consistent with this opinion.

Nothing in the legislative history of section 17(f) suggests that Congress reconsidered the other relief provision (quoted first above) deleted in 1946 which had suspended rental payments. Thus, a suspension under section 17(f) does not relieve the lessee from paying an annual holding cost, either rental or minimum royalty. However, a lessee whose lease is suspended under section 17(f) may also qualify for suspension, waiver or reduction of rental or minimum royalty if the lessee meets the tests for this relief set out in the first sentence of section 39. (Suspension of operations and production is set out in the third sentence.) In fact, this rental relief provision was added in 1946 as part of the consolidation of relief provisions referred to above, in which the section 17 rental suspension provision was deleted.

The legislative history of section 17(f) is also silent regarding the standards under which suspensions are ordered or approved. The current regulation, 43 C.F.R. 3103.4-2(a), contains no specific standards for granting section 17(f) suspensions other than the conservation standard set out for section 39 suspensions.^{6/} Under the Secretary's general authority to carry out the purposes of the Act, 30 U.S.C. § 189, you are free to adopt the section 39 standard or another appropriate standard for section 17(f). Whatever standard you choose should be adopted through rulemaking. 30 U.S.C. § 189.

^{6/}In 1959, the Acting Solicitor construed this regulation as applying the section 39 standard to section 17(f) suspensions. Memorandum from Solicitor to Director, U.S. Geological Survey, Application for suspension of operations under Las Cruces 060585 et al. (March 24, 1959). Although this opinion is cited in Texaco, Inc., 68 I.D. 194, 197 (1961), as stating that section 17(f) suspensions may only be granted in the interest of conservation, the 1959 opinion does not support such a broad interpretation because it only construed the regulation, not the statute.

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A lessee may conduct operations during a suspension of production, but there must be production before such a suspension may be granted. H.K. Riddle, 62 I.D. 81, 87 (1955). In the absence of a well capable of production, a suspension of operations that allowed lease activity would be a contradiction in terms. Regardless of our conclusion on the extent of the relief granted by a section 17(f) suspension, Congress clearly thought it was providing relief in a situation where a lessee was prevented from exercising lease rights.

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3. Effect of the suspensions previously granted

Under our above conclusions, True and Arco would not have been allowed to conduct down-hole repair and drilling operations while their leases were suspended. We are advised that other lessees have also been allowed to conduct on-lease activity such as road construction and site preparation while their leases were suspended. While this issue has been discussed with the Office of the Solicitor, no written opinion has been given until now on the propriety of this practice. Moreover, the Solicitor approved the BLM document which recommended that True be allowed to conduct these operations while its leases were suspended. We now address the question whether this opinion affects those earlier actions.

The question of retroactive effect has been addressed several times in the past where the Department has concluded that a prior interpretation or practice was inconsistent with the Act. Several decisions and opinions have concluded that the Secretary has the discretion to apply the new, legally correct interpretation prospectively only: E.g. Solicitor's Opinion M-36945, 89 I.D. 610 (1982) (railroad affiliates may not acquire interests in coal leases--existing interests may remain); Solicitor's Opinion M-36888 (Supp. II), 84 I.D. 171 (1977) (opinion concluding that certain gas production which is not sold is subject to royalty will not be applied to past production); Solicitor's Opinion M-36686, 74 I.D. 285 (1967) (noncompetitive oil and gas lease applications must be rejected if lands are within known geological structure of a producing oil or gas field at the time the lease would be issued regardless of status of lands at the time the application was filed--no action should be taken against leases issued under the discarded interpretation); Franco Western Oil Co. (Supp.), 65 I.D. 427 (1958) (opinion concluding that partial assignments filed for approval during the last month of the five-year extended term cannot effectuate lease segregation and further extension because the lease expires the day before the assignment would become effective should not be applied to assignments approved under the discarded interpretation); see also, Extension of Oil and Gas Lease Pursuant to Acts of December 22, 1943, and September 27, 1944, where Leased Lands are Partly Within Known Producing Structure, 58 I.D. 766 (1944); Rights-of-Way Across Tribal and Allotted Indian Reservation, Montana, 58 I.D. 319 (1943). One element is common to all of these new or revised interpretations--retroactive application of the current rule would cause hardship to those who acquired and relied on contractual rights created under the discarded interpretation.

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The issue of retroactive application of a changed interpretation has been addressed in two court decisions involving oil and gas leases. In Safarik v. Udall, 304 F.2d 944 (D.C. Cir.), cert. denied, 371 U.S. 901 (1962), the court affirmed the Department's decision in Franco Western Oil Co. (Supp.), supra, not to apply the corrected interpretation retroactively. The court noted that both interpretations were reasonable and that retroactive application would adversely affect lessees who had relied on the original interpretation. The court then held that the Secretary has much discretion in the administration and management of the public lands, including the authority to apply a changed interpretation prospectively in order to avoid injustice or hardship. In Enfield v. Kleppe, 566 F.2d 1143 (10th Cir. 1977), the court upheld application of the Department's new regulation, which limited lessees to one drilling extension under 30 U.S.C. § 226(e), to leases issued before the change. The court held that the repealed regulation, which allowed more than one drilling extension, was void and unenforceable because it was directly contrary to the plain language of 30 U.S.C. § 226(e). The Enfield court distinguished the Safarik decision because, in Safarik, the first interpretation was not void from the beginning and, more importantly, because "the question whether the Secretary could properly apply a new ruling retroactively was not before the trial court in this case." 566 F.2d at 1143.

Neither case clearly settles the issue of retroactive application of this opinion other than to recognize the Department's authority, in a proper case, to apply a changed interpretation prospectively only. Retroactive application here would affect two categories of lessees: (1) those who have received suspensions, who have been allowed to conduct lease activity during the suspension, and who continue to hold their leases either by production or by further extension such as unit termination; and (2) those existing lessees who may seek a suspension in the future and who also seek to conduct lease activity under the prior practice. In the first category, lessees have utilized their leases as valid contracts and exercised their rights under those contracts, both during the period of suspension and after the suspension was lifted, but prior to announcement of the correct interpretation. In the second category, lessees are seeking to obtain the benefit of an erroneous interpretation after it has been corrected.

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In Enfield, the Department applied its new interpretation to a lessee who was seeking a second drilling extension which would have been available under the discarded interpretation. 566 F.2d at 1141. The case did not involve, as the Safarik case did, a lessee who had obtained the benefit of the incorrect interpretation before it was overruled. A similar distinction was used in the retroactive application of Solicitor's Opinion M-36686, supra, to lease applications pending on the date of the opinion but not to leases actually issued under the discarded interpretation. See McDade v. Morton, 353 F. Supp. 1006 (D.D.C.), aff'd without opinion, 494 F.2d 1156 (D.C. Cir. 1973). This distinction should be applied here.

We will discuss the True and Arco leases although the same principles should be applied to other leases in similar circumstances. The Deadman Unit resulted in no producing well, but the leases were preserved and were later extended for two years under section 17(j) by unit termination. Another unit was then formed and new exploratory drilling was commenced within five months. In the Rock Creek Unit, the additional drilling discovered gas in two different formations but of insufficient quality or quantity to warrant completion of the well as a well capable of production for purposes of continuing the leases. Thus, the lessees have utilized their leases as valid contracts and exercised their rights under those contracts. If the suspensions are now considered ineffective, many leases that were in these units would have expired. This would not only cause hardship to True and Arco, but also to other lessees who participated in the units and those who have combined with some of the former Deadman leases in a new unit. In light of the potential hardship to the lessees, the reliance placed by the lessees on the Department's actions in these cases and the lack of guidance from the Office of the Solicitor to BLM on the correct legal interpretation, this opinion should not affect suspensions granted in the past where lease activity was allowed.

CONCLUSION

In the future, a suspension of operations and production should prohibit all beneficial use of the lease. No lessee should be allowed to conduct access road construction on the leased lands, site preparation, well repair, drilling or similar activity while a lease is suspended as to both operations and production or as to operations. Thus, a suspension ends when lease activity, not just actual drilling, commences. Separate suspensions of operations or production may be approved, under appropriate standards, which toll the running of the lease term but which do not suspend rental or minimum royalty payments. Finally, the interpretations contained in this memorandum should only be applied to suspensions which are directed or approved after this date.

INTERIM GUIDANCE

DRAFT BLM HANDBOOK H-3180-1 - UNITIZATION (EXPLORATORY)

NOTE TO USERS: The attached DRAFT BLM Handbook H-3180-1 is being issued as INTERIM GUIDANCE for those involved in administration of the oil and gas units program.

H-3180-1 - UNITIZATION (EXPLORATORY)

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I. Introduction.

The objective of unitization is to proceed with a program that will adequately and timely explore and develop all committed lands within the unit area without regard to internal ownership boundaries. Exploratory units normally embrace a prospective area that has been delineated on the basis of geological and/or geophysical inference. Exploratory unit agreements normally encompass all oil and gas interests in all formations within the unit area and provide for the allocation of unitized production to the committed lands reasonably proven to be productive of unitized substances in paying quantities on the basis of the surface acreage included within the controlling participating area. By effectively eliminating internal property boundaries within the unit area, unitization permits the most efficient and cost-effective means of developing the underlying oil and gas resources.

The BLM will approve the commitment of Federal lands to a unit agreement in the interest of conserving the natural resources, when it is determined to be necessary or advisable in the public interest. When such a determination is made and Federal lands are committed to the unit, the authorized officer has a responsibility to ensure that unit development proceeds in a way that continues to serve the public interest, regardless of whether the Federal lands comprise only a small fraction or a major part of the unit area.

The guidelines and procedures discussed in this Handbook apply generally to all unit agreements involving Federally-supervised leases, but specifically to those agreements that adopt the text of the form of agreement contained in 43 CFR 3186.1. While reference is made throughout this Handbook to specific sections of the Federal form of unit agreement (43 CFR 3186.1), any such reference should be understood as applying also to the equivalent provision in a non-Federal form of agreement, if appropriate.

Section II of this Handbook discusses the general procedures to be followed in administering oil and gas exploratory unit agreements. As an aid to BLM personnel involved in units administration, the Handbook also provides, in Illustration 1, a recommended format for the various notices and approvals that are required during the life of a unit. Illustration 2 of the Handbook provides general guidance and suggested formats for submissions required from the unit operator. Further illustrations are included that provide supplemental guidance for managing units information, for treating communitized areas within units and for including special provisions in the unit agreement.

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II. Guidelines and Procedures.A. Procedures for Designation of Unit Area; Depth of Test Well.

When requesting designation of an area as logically subject to development under a unit plan, an applicant must submit all required information in duplicate to the authorized officer. An application for designation of unit area should consist of an application letter accompanied by a geologic report and land ownership map, as follows.

1. Application letter. In its request for designation, the applicant must:

a. Accurately define the proposed unit area either by reference to the accompanying map or by including a legal description of all lands in the proposed unit area. The description should show lots and tracts, if any, and the exact acreage thereof, including the total acreage in each section and the entire unit area.

b. List in sequence (grouped by Land Office identities) the serial numbers of all Federal leases and pending lease applications, Indian leases, and the expiration date of each lease.

c. If geological and geophysical data and discussions are to be confidential, the applicant should so state and clearly mark each page of such documents as **CONFIDENTIAL INFORMATION**. The geologic report should be a separate report supporting the application for designation of a unit area.

d. Cite the deepest formation that the proponent plans to test, the projected depth that the initial test well(s) must reach to adequately test that formation, and the number of initial wells to be required.

2. Geologic Report. The geologic report should include:

a. A map on the public land survey base showing the proposed unit boundary and a detailed geologic map illustrating the limiting mechanism for production of the objective formation, along with structural cross section(s) and other geologic data as they relate to the proposed unit area. The geologic map and the cross section(s) should show the strike and dip of all pertinent faults. The map must show the location of all wells drilled in the unit area and immediate vicinity thereof and should indicate the status and depth of each well and the lowest formation penetrated.

b. Appropriate cross-sections and stratigraphic columns, identifying prospectively productive formations and indicating expected depths.

c. Pertinent geophysical interpretations.

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d. The geologic basis for selecting the proposed unit area boundary, such as closing structural or stratigraphic contour, fault, or pinch-out.

e. A brief discussion of the unit area, including (1) the location of the prospect geographically and physiographically; (2) pertinent geologic factors, including structure and stratigraphy, as they relate to the proposed unit area; and (3) the location of existing wells with emphasis as to why the prospect has not been evaluated by these tests.

f. The location of the initial test well, its proposed total depth, projected formations to be tested, and a brief discussion of the rationale for drilling the initial test well at the chosen location.

3. Land Ownership Map. The land ownership map, on a scale not less than 1 inch to 1 mile, shall show:

a. The specified outline of the proposed unit area based on the official public land survey, including the acreage and official number of each lot, tract, and section, and total acreage of the unit area.

b. The boundary of each lease and unleased tract of land. Insofar as possible, the lands should be identified with the same tract numbers that will be used later in Exhibit B of the unit agreement.

c. By use of distinctive colors or symbols, the different types of land, such as Federal, Indian, State, railroad, and other fee lands. Also indicate different types of Federal lands, such as Forest Service, Fish and Wildlife Service, and Indian allotted or tribal lands.

d. Working interest owners and lease numbers of Federal and Indian leases and lease expiration dates.

4. Special Unit Provisions. Use of the model form of unit agreement (43 CFR 3186.1) is encouraged. However, certain types of lands require the inclusion in the unit agreement of special provisions, which must be approved in advance unless recited in the designation letter. If any other deviations from such form are deemed advisable, the proposed form, with Exhibits A and B, or equivalents, attached to each copy and with all deviations from the model form plainly marked and explained, must be submitted for approval by the authorized officer.

5. Review of the Application. To ensure the adequacy of the application, the authorized officer reviews the application for correctness and acceptability as to format, unit area, initial well requirement(s), and information presented in the geologic report. Individual Federal and Indian leases are checked for expiration dates and for any special land stipulations that should be included in the agreement. For unit agreements that contain unleased right-of-way or other lands, additional steps should be taken to have these lands leased prior to final approval of the unit.

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The proposed form of unit agreement is reviewed to determine if the agreement language meets the needs of the specific case. The proposed location of the initial unit well(s) should be reviewed and, if the location is near the edge of the proposed area and it is not justified geologically, the operator should be requested to select a more appropriate well site or to consider revising the unit boundary.

Each application for designation submitted to the authorized officer for approval must be accompanied by a report demonstrating that the proposed unit outline is consistent with the geologic information submitted. Geologic information should show that unitization is necessary and advisable in the public interest.

Illustration 1-1 is a form letter recommended for use by the authorized officer in notifying the applicant that the land identified in his application has been designated a logical unit area.

B. Unit Area and Well Obligation

The general intent of unitization is to pool mineral interest ownership in an entire geologic structure or area in order to provide for adequate control of operations so that exploration, development, and production can proceed in the most efficient and economical manner. It follows that a unit area should encompass only those lands considered necessary for the proper development of the unitized resources. An actual unit boundary may be established by honoring structural, stratigraphic, or other limiting geologic parameters. Administrative boundaries should not be used except in rare circumstances such as an adjoining unit boundary. A unit area may extend into designated Wilderness, Park System, Wildlife Refuge, or other protected area. In that instance, the unit proponent should be made aware that operations (surface or sub-surface) may be conducted within the protected area only on lands that are leased and only if such operations are not precluded by law, regulation, or by surface use restrictions imposed by the surface management agency (SMA).

Historically, the ratio of one well per 25,000 acres has been used. However, the authorized officer shall require the unit proponent to drill sufficient number of wells to adequately test the trap or series of traps identified in the geologic report and supporting maps. Contributing factors would include the nature, extent and depth of the potential reservoir(s), and pertinent information from any wells which have already been drilled in the general area. If the unit agreement requires more than one obligation well, then all obligation wells must be drilled to the formation/depth requirements specified in the unit agreement in order to fulfill the public interest requirement (43 CFR 3183.4[b]), unless the authorized officer determines that the public interest requirement has been satisfied with the drilling of less than the full multiple well commitment. Section 9(a) of the model form of exploratory unit agreement (43 CFR 3186.1) contains substitute language that should be used in agreements that incorporate a multiple well obligation.

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C. Approval of an Executed Unit Agreement.

When an executed unit agreement is received for approval, it is processed as follows.

1. The application is reviewed for proper format, including the filing of a sufficient number of copies. Unless specified otherwise in the designation letter, a minimum of four signed counterparts are required.

2. The text of the executed agreement must be identical to that approved in the designation letter. Any exceptions are noted and, if significant, the application is returned unapproved for correction by the applicant.

3. All tracts listed on Exhibit B (43 CFR 3186.1) are reviewed as to proper arrangement, land description, and acreage. Lease numbers, expiration dates, royalty rates, and lessees of record for all Federal and Indian leases are verified from BLM and Bureau of Indian Affairs records. The subtotal of acreage for each type of land and its percentage of the total unit area should be shown.

4. The ratification and joinders submitted with the agreement are checked against the lessees of record, basic royalty owners, and working interest owners to determine the commitment status of each tract (see paragraph II-U.) ~~All lessees of record and working interest owners for each Federal/Indian tract must submit a ratification and joinder before the tract is considered fully committed. Since the basic royalty, lessee of record, and working interest ownership in State and fee lands cannot be verified, joinders by parties purported to own such interests are to be accepted as correct.~~

5. All signatures should be either witnessed or acknowledged before a notary. Execution by a corporate officer should show that person's title and carry proper attestation and the corporate seal. The commitment of overriding royalty and production payment interests can be accomplished either by the unit operator submitting a list of such owners which indicates those who have executed the unit agreement, or by the filing of appropriate joinders. When specific interests are held by different individuals or companies, each such entity holding an interest should execute the agreement even where one company may be wholly owned by another signatory party.

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6. To assure effective control over unit operations, generally at least 85 percent, on an acreage basis, of the lands within the unit area must be fully, effectively, or partially committed to the unit agreement. Approval may be granted with a lesser commitment when all or a substantial portion of the noncommitted land is "fringe acreage", i.e., is located adjacent to the outer boundary of the unit area or otherwise far removed from the site of the initial unit well.

7. Every owner of an interest in the unit must be invited to join the unit agreement. If any owner fails or refuses to join, evidence of reasonable effort to obtain joinder should be submitted by the unit proponent, together with a copy of each refusal giving the reasons for nonjoinder.

8. Two true copies of any unit operating agreement should accompany the executed unit agreement.

9. Any lands in the unit area that are subject to an option agreement should be identified in Exhibit B (43 CFR 3186.1), and the basic provisions of the option should be described. In all cases, the person committing such interest should exercise the option promptly after approval of the unit agreement.

10. Fully and effectively committed Federal leases are subject to segregation pursuant to 30 U.S.C. 226(m) and, where segregation is appropriate, the lease is so noted on Exhibit B (43 CFR 3186.1). Horizontal segregation is discouraged and should be avoided whenever possible. Horizontal segregation normally can be averted if a statement is submitted by the unit operator advising that it is not the intent of the signatory parties to the unit agreement that horizontal segregation occur as a result of the unitization (see Solicitor's Opinion M-36776, May 7, 1969.)

11. A Certification-Determination page (see Illustrations 1-2A and 1-2B for recommended format) and approval letter (Illustration 1-2C) are prepared and signed by the authorized officer. Generally, if State, Indian, and/or fee lands are involved, the unit agreement should be approved by the appropriate State and Indian agency before the agreement is submitted for approval by the authorized officer. However, where a majority of acreage within the proposed unit is Federal, and where sufficient acreage has been committed to assure effective control, the authorized officer may approve the agreement prior to its approval by the appropriate State or Indian Agency. In all cases, the State or Indian Agency should be notified of the proposed unitization and be given the opportunity to commit its lands prior to authorized officer approval. Unit agreements that contain only Indian lands are not approved by the authorized officer. For such units, a memorandum giving the reviewing officer's recommendations, with the unit instruments filed for review, are transmitted to the appropriate BIA office for final approval.

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12. Upon approval, the unit is assigned a Case Recordation System (CRS) number (see Illustration 3) and entered into the CRS.

13. One complete copy of the unit agreement, unit operating agreement, designation, approval, and associated papers is retained in the office of record. Where the authorized officer is a State Office official, one copy of such documents is transmitted to the appropriate District Office.

14. The effective date of a unit is not negotiable, and a retroactive date may not be used even if justification is submitted by the proponent. A unit agreement will be effective as of the date of the authorized officer's approval signature. However, for non-Federal form units that are not designated by the authorized officer, the effective date will be that date specified in the agreement.

15. While it is desirable to have the owners of Federal overriding royalty interest (ORRI) join in the unit, approval will not be denied if they do not join. Private basic royalty owners must execute joinders to the unit agreement unless the lease specifically authorizes the lessee to commit their basic royalty interest to a unit agreement.

D. Operating Rights

Certain unit approvals (e.g., final unit agreement approval, successor operators, subsequent joinders, etc.) depend on the consent of a sufficient percentage of working interest owners. Since BLM does not verify present working interest ownership, the most current Exhibit "B" must be accepted as the unit operator's self-certification of ownership. If the actual working interest ownership does not correspond with necessary consent or executed instruments submitted with the approval request, then an updated Exhibit B must be submitted by the unit operator. Any approval letter related to working interest ownership, such as for the approvals noted above, must contain the following, or similar, disclaimer:

"In accepting/approving this (unit agreement, designation, etc.) the authorized officer neither warrants nor certifies that the (unit operator, designated party, etc.) has obtained all required approvals that would entitle it to conduct operations or otherwise exercise its rights under terms of the _____ Unit Agreement."

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E. Exploratory Drilling Operations.

Section 9 of the model form of unit agreement for unproven areas (43 CFR 3186.1) contains the initial test well requirements for the unit. Generally, this section requires the unit operator to commence an adequate test well within 6 months of the effective date of the unit agreement and to diligently drill such well to completion; to continue drilling one well at a time, allowing not more than 6 months between the completion of one such well and the commencement of the next such well; and to pursue such operations until a well capable of producing unitized substances in paying quantities is completed. Production in paying quantities is defined in the model agreement as "quantities sufficient to repay the costs of drilling, completing, and producing operations with a reasonable profit" A well that is commenced prior to the effective date of the unit agreement may satisfy the initial test well requirements if it is being drilled conformably with the terms of the agreement on the effective date, i.e., the well can not have penetrated the objective horizon specified in Section 9 (43 CFR 3186.1) prior to the effective date of unitization (also, see paragraph R.)

1. Drilling to Discovery - Initial Test Well. In order for a well to be considered as fulfilling the initial test well requirements under the unit agreement, the well must be drilled diligently and meet one of the following criteria:

-
- a. ~~Test the formation specified in Section 9 (43 CFR 3186.1).~~
 - b. Reach the depth requirement specified in Section 9.
 - c. Discover unitized substances which can be produced in paying quantities at a lesser depth than the formation or depth requirement specified in Section 9.
 - d. Establish to the satisfaction of the authorized officer that further drilling of the well would be unwarranted or impracticable.

When a well satisfies the requirements of Section 9 (i.e., satisfies the PIR under 43 CFR 3183.4[b]), then all committed unit leases would qualify for extension by drilling. If a well fails to satisfy the Section 9 requirement, yet was drilled diligently, then only the lease on which the well was drilled would qualify for extension by drilling. The standard for diligent drilling operations is that set out in 43 CFR 3107.1.

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2. Further Drilling and Development. The initial participating area under an exploratory unit agreement is established by the completion of the first unit well capable of producing unitized substances in paying quantities (as defined in 43 CFR 3186.1, Section 9). After such discovery, further drilling or development is to take place under an approved plan of development (see paragraph II-H), except as may be necessary to protect the unit area from drainage. The drilling to discovery provisions in Section 9 of the model form permit the authorized officer to modify the drilling requirements by granting reasonable extensions of time when, in his opinion, such action is warranted (see paragraph II-K).

3. Multiple Test Well. When the unit agreement incorporates a multiple well requirement, the operator is obligated to drill all required wells. Failure to commence drilling all required wells beyond the first obligation well, and to drill them diligently, may result in the unit agreement approval being declared invalid ab initio by the authorized officer.

4. Producible Wells Prior to Unitization. Where producible wells exist in the unit area prior to unitization, Section 11 (Participation After Discovery) of the model form of unit agreement should be modified to provide that wells completed prior to the effective date of the unit agreement will not be recognized as unit wells until after an initial participating area is established based on the completion of a unit well capable of producing unitized substances in paying quantities as defined in Section 9 of the model unit agreement (see also paragraph II-R).

F. Determining Production of Unitized Substances in Paying Quantities.

The term "paying quantities" is defined in the model form of unit agreement as "quantities sufficient to repay the costs of drilling, completing, and producing operations with a reasonable profit . . ." The cost of producing operations is defined as "the cost of maintaining the lease and producing the wells, including the cost of marketing the products." The phrase "cost of marketing the products" is further defined as "the normal or usual handling, treating, measurement, and transportation costs which a responsible lessee could be expected to pay to market his leasehold production. Such costs would not include abnormal or extraordinary charges, such as construction of a lengthy pipeline." This definition of the cost of producing operations, with the criteria applied to such definition, is also applicable to unit operations. However, the definition of paying quantities for unit purposes also includes the burden of return of drilling and completing costs. Generally, the drilling and completion costs to be considered will be the actual costs involved; however, consideration should also be given to those reasonable costs which a responsible operator could be expected to incur while drilling and completing the well in question. Extraordinary costs, such as drill string failure, extensive coring and testing programs, loss of well control, etc., normally should not be allowed.

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Generally, no more than 12 months of well production data should be required to conduct a paying well analysis. On rare occasions, if additional well production data beyond 12 months is necessary to conduct a paying well analysis, a letter to the unit operator should be sent outlining the reason(s). However, the requirement that additional wells be drilled with no more than 6 months between wells shall continue in effect during any such test period unless extensions are granted by the authorized officer.

1. Paying Well Evaluations. To evaluate a "paying well" determination (PWD), a reserve-economic analysis showing a well's discounted pay-out and the estimated ultimate recovery to be realized usually is required. To retain quality and consistency in performing a paying well analysis, the use and application of various economic input parameters should be uniform. At the time of the paying well determination, the current market or contract price should be used as the current product price. If the well has produced for a period of time prior to the paying well determination, then the actual product price should be used for that period of time. If no contract price for gas is available, then the highest current gas price being paid for a majority of like quality gas in the area or field should be used.

Since product prices and field operating costs will likely not remain constant with time, reasonable projections of these economic variables should be used in unit PWDs. For consistency in these analyses, a reliable and readily available source of forecasting data is desirable. The Energy Information Administration (EIA) in the U.S. Department of Energy is such a source for oil and gas price forecasting, and publishes periodic reports, such as their Annual Energy Outlook and Short-Term Energy Outlook, which contain this information. These oil and gas price forecasts are normally developed for a range of market assumptions. The product price forecasts developed by EIA for the medium or base case scenario should be used in unit PWDs. Price forecasts should be used for all future years to be analyzed. However, since these forecasts are generally not reported for all future years, interpolating price inputs for intervening years may be necessary. In addition, since oil price forecasts are generally made for the world oil price, it may be necessary to make price adjustments that reflect quality and market differences between the forecasted product and the resource being analyzed. A reasonable estimate of future operating costs can be deduced from the Producer Price Index, published monthly by the Bureau of Labor Statistics, U.S. Department of Labor.

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Additional consistency in unit paying well determinations is achieved through adoption of a standard discount factor for use in the economic analysis. Normally, in evaluating the economics of a proposal through discounted cash flow (DCF) analysis, a certain level of risk is assumed. This degree of presumed risk is reflected in the discount rate selected for use in the analysis. Since the well being evaluated in a PWD has already been drilled and been shown to be producible, the risk of failure has been reduced considerably. For consistency, the risk component of the discount rate used in BLM's paying well determinations is assumed to be zero. Under that assumption, an acceptable proxy for the discount rate used in a unit PWD would be the yield on United States Government intermediate-term (10-year) bonds, an essentially risk free investment that captures both inflation expectations and the time value of money. The average yield (rounded up to the next whole percent) on intermediate-term Government bonds, as reported in national financial publications and many major newspapers, should be used as the discount factor in the economic evaluation for a unit PWD. The discount rate would continue unchanged for the life of the estimated ultimate recoverable reserve projection. The use of a conservative discount rate favors the operator's well in qualifying as a unit paying well and ultimately furthers the resource conservation objectives of unitization.

The DCF analysis starts at the time the well is completed using actual or projected production. There is no set limit on the number of years for a well to payout. However, if payout is longer than 10 years, the economic assumptions used in the paying well analysis should be reexamined. The use of the windfall profits tax (repealed in 1988) should not be considered in the paying well analysis. If such a tax is enacted in the future, however, it would then be utilized in the analysis.

State Offices are responsible for assuring that adequate source information for product price/operating cost forecasting and Government Bond yields is available to offices responsible for conducting unit PWDs.

2. Non-Paying Well/Recompletion Evaluations. The drilling and completion costs to be used in the economic analysis for a paying well determination for a recompleted or reentered well should be the typical cost of drilling and/or completing the same well at the time of recompletion or reentry. The economic factors and the total remaining reserves at the time of recompletion or reentry should be utilized. Each producing horizon in a completed well should be evaluated separately. If a workover is performed in the current horizon (e.g. additional perforations, frac job, etc.) then the following guidelines for a non-paying well reevaluation would apply.

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Wells initially determined to be non-paying normally should not be considered for reevaluation. However, if there is a significant change in conditions (such as a sustained increase in product price or significant increase of monthly production) a non-paying well may be considered for reevaluation. A non-paying well may be reconsidered upon request by the unit operator, or may be initiated by the authorized officer if it is believed it would serve the public interest. When reevaluating a well previously determined to be a non-paying well, the following economic factors should be applied, as of the effective date the well potentially becomes paying: (1) typical cost of drilling and/or completing the same well, (2) remaining reserves, and (3) the applicable economic parameters. The historical data prior to the effective date should not be considered in the reevaluation. The effective date of any revision of a participating area caused by the reevaluation of a non-paying well should be the first of the month on which the changing condition occurred regardless of when the request for reevaluation is received from the unit operator or when initiated by the authorized officer. For wells completed before a unit was formed, the same economic factors would apply. Illustration 1-3 may be used in notifying the operator that a unit well has been determined to be a non-paying well, as defined in Section 9 of the unit agreement.

G. Establishment or Revision of Participating Areas.

After the first unit well capable of producing unitized substances in paying quantities is completed, a participating area is established in accordance with Section 11, "Participation After Discovery", of the unit agreement (43 CFR 3186.1).

1. Initial Participating Area. The land that is to be included in a participating area is that land reasonably proven capable of producing unitized substances in paying quantities or, if so provided in the unit agreement, that land necessary for unit operations (most older units, i.e., prior to 1968, do not provide for such additional lands). In the event that State spacing orders are still applicable to lands in the unit area, spacing should be accepted in determining the participating area, unless the authorized officer determines that it is not in the public interest. Accordingly, participating areas should include the acreage within the spacing unit established for every well that is included in the participating area. Additional acreage is also included where the available information indicates that such lands reasonably are proven to be capable of producing unitized substances in paying quantities. The establishment of the initial participating area causes the unit to convert to a producing status, and all subsequent unit wells and operations are to be conducted under an approved plan of operations. The effective date of the initial participating area usually is the date the "discovery" well was completed, i.e., the date the well was determined to be physically capable of producing unitized substances in paying quantities. Illustration 2-2 presents a suggested format for use by the unit operator in requesting approval of an initial participating area. Illustration 1-4A is a form letter advising the unit operator that the initial participating area has been approved.

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If an application to establish an initial participating area has not been filed within 3 months after completion of a unit well, the authorized officer should contact the unit operator and follow up, as needed, until the necessary actions are completed.

An application for the authorized officer's concurrence that a well is not capable of producing unitized substances in paying quantities should be submitted for every nonpaying unit well by the unit operator. Every unit well completed for production should either be included in a participating area or determined to be a non-paying well as soon as possible after completion.

A recommended method for establishing the initial participating area for an exploratory unit should incorporate basic engineering and geologic principles. The following equation can be used as a basis for determining the size of the participating area:

$$N_p = N \times E_r$$

Where N_p is recoverable reserves, N is the original hydrocarbons in place and E_r is the recovery factor.

Recoverable reserves can be calculated by using decline curve analysis based on the available production history. If gas reserves are involved, a graph of P/Z versus cumulative production can be used where there is available pressure and temperature data. An economic limit or cut-off point will also need to be established when determining recoverable reserves. A substantial amount of the calculation was probably accomplished while making the paying well determination. If available, modeling can be used to determine recoverable reserves.

A recovery factor can be determined by empirical correlation or through field experience given a specific reservoir. The reservoir drive mechanism(s) may have to be determined and used in estimating the recovery factor.

Once the recovery factor and recoverable reserves are determined, the original hydrocarbons in place can be calculated. Using the volumetric equation for oil or gas, the area necessary for the participating area can be determined. Values for porosity, net pay thickness, water saturation, and formation volume factor can and should be obtained from independent log and reservoir analysis. If the area calculated compares favorably with what the unit operator files for approval and the configuration is reasonable, the application can be approved.

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The actual configuration of the participating area should be consistent with available geologic data. Since this configuration logically may be something other than circular, detailed geologic mapping may be necessary if adequate data exists. Radial drainage should be assumed when insufficient data exists and when not contradicted by available information. Since participating areas are based on subdivisions of the public land survey or aliquot parts thereof, any subdivision cut 50 percent or more by the outer boundary of the participating area configuration should be included in the participating area.

The following table based on participating area size can be used as a guideline to determine what subdivision should be considered for inclusion in the participating area.

Participating Area Size-Acres	Subdivision Acres
Greater than or equal to 320	40
Less than 320	10

Smaller divisions of less than 10 acres can be considered when sizing participating areas as well as cases involving metes and bound surveys. These situations should be evaluated on a case-by-case basis.

The above method may not be appropriate in all circumstances and the authorized officer should use discretion in determining the configuration of the participating area.

2. Revision of Participating Area. A participating area will be revised in accordance with Section 11 of the unit agreement (43 CFR 3186.1), when additional paying wells are completed in the formation for which the participating area has been established. When a revision brings in additional lands, such lands will be contiguous to the existing participating area. Although the additional geologic and engineering information obtained from the completion of each new paying well is used, the amount of acreage that is brought into the participating area by a revision is dependent on the same criteria used in determining the initial participating area. Similarly, land previously included in a participating area that is proven by the subsequent completion of a dry hole to be incapable of producing unitized substances in paying quantities should be eliminated from the participating area. The completion of a well not capable of producing unitized substances in paying quantities also may be grounds for eliminating acreage if there is no reason to believe that drainage of the lands in question has occurred from other unit wells. Since it is virtually impossible to delineate the exact limits of production in paying quantities, any doubts as to whether or not a tract should be placed in a participating area should be resolved against participation, since a participating area can be enlarged more easily than it can be reduced.

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A request for the authorized officer's approval for the establishment or revision of a participating area should be accompanied by comprehensive engineering and geologic data that support and justify the unit operator's proposed definition or redefinition of lands entitled to be in the participating area. This information should include the status of all wells, current rates of production, and cumulative volumes of oil and gas production. Illustrations 2-3 and 1-4B are suggested formats for the application for and approval of a revision to a participating area.

Separate participating areas should be established for each separate productive reservoir, pool, formation, or zone covered by a unit agreement. Separate participating areas should be established for the same producing horizon when there is uncertainty as to whether the production is continuous between the two areas. However, separate participating areas should be combined into one contiguous participating area if subsequent information shows them to be producing from a common reservoir. Lands may not be eliminated from a participating area because of the depletion of unitized substances. However, such lands may be eliminated when reasonable proven to be nonproductive of unitized substances in paying quantities.

Lands not reasonably proven to be productive of unitized substances, but which are shown to be necessary for unit operations, may be taken into a participating area if such inclusion is provided for under terms of the unit agreement. The phrase, "lands necessary for unit operations" is construed to mean that the operations thereon would result in improved recovery of unitized substances (see Champlin Petroleum Co., 100 IBLA 157, decided December 3, 1987.) Lands on which unit operations provide only an indirect benefit to the participating area such as those that contain water disposal wells, water supply wells, or product treatment equipment, should not be included in the participating area. Any request for the inclusion of nonproductive lands considered necessary for unit operations into a participating area shall present a rational basis for such inclusion.

When it becomes necessary to revise a participating area by inclusion of acreage to be determined necessary for unit operations, a detailed geologic and engineering report will be necessary for justification of additional acreage. The probability exists that nonproductive acreage will be included in the participating area; hence, a rational basis should be used when adding additional acreage. This may include a negotiated agreement between working interest owners, and the unit operators with the acceptance of the authorized officer on what acreage should be included. Another consideration would be to analyze the reservoir area affected receiving the benefit of injection. In an exploratory unit surface acreage will be used for expanding the participating area.

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The effective date for revision of a participating area is normally the first of the month in which the information upon which the revision is based is obtained, but a more appropriate date may be used when justified (older units may specify a different effective date). After a discovery has been made, the authorized office shall not approve an application for permit to drill or to perform other operations (except routine operations such as stimulation, well repair, etc.) under a unit unless the proposed operations were included in the currently approved plan of development (see paragraph H below), except where protective drilling is required.

State spacing may be used as a guide in determining the acreage to be included in participating areas, unless the authorized officer determines that such spacing is not in the public interest. Accordingly, participating areas should include the drilling and spacing unit established for every well included in the participating area. Additional acreage may also be included if the lands meet the requirements of Section 11 of the model unit agreement.

3. MMS Notification of Participating Area Approvals. All BLM approvals of Federal/Indian initial or revised participating areas will contain the following notice from MMS notifying the unit operator to inform payers to make adjustments to royalty payments within 90 days after a participating area has been approved:

IMPORTANT NOTICE FROM THE MINERALS MANAGEMENT SERVICE

If this well(s) is producing, this approval requires the submission of a Payor Information Form MMS-4025 to the Minerals Management Service (MMS) within 30 days (30 CFR 210.51). Please notify the designated payor or payors (purchasers, working interest owners, or others) as soon as possible regarding this requirement. Any production royalties that are due must be reported and paid within 90 days of the Bureau of Land Management's approval date or the payors will be assessed interest for late payment under the Federal Oil and Gas Royalty Management Act of 1982 (See 30 CFR 218.54.) If you need assistance or clarification, please contact the Minerals Management Service at 1-800-525-9167 or 303-231-3504.

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H. Plan of Further Development and Operation.

1. Purpose. The main purpose of a plan of development and operation is to provide for the progressive exploration and development of the unit area in an orderly and timely manner until such time as the productive limits of each participating area have been defined as fully as practicable. Generally, plans of development and operation should be designed to ensure that the exploration and development drilling needed to delineate the unitized land capable of producing unitized substance in paying quantities will be accomplished as early as 5 years from the effective date of the initial participating area, and certainly within 10 years from such date. Until the limits of paying production in each participating area have been determined, the number of proposed exploratory wells should approximate the number of proposed development wells. However, the authorized officer should exercise reasonable judgment in determining this ratio.

2. Plan of Development. Section 10 of the model form of unit agreement (43 CFR 3186.1) requires that a plan of development and operation be filed for approval within 6 months after the effective date of the initial participating area (see paragraph II-G1.) This plan should describe all anticipated unit operations for the next 6 to 12 months, including the drilling, completing, conversion, and producing of unit wells, and other surface disturbing operations, and may be supplemented as necessary. Prior to the expiration of the initial or any subsequent plan of development and operation, a new plan covering the next period (the following calendar year) should be submitted on a calendar year basis not later than March 1 of each year, for the authorized officer's approval. Any proposed modification or addition to the existing plan should be filed as a supplement to the plan. Plans of development and operation should be approved with a notation that the authorized officer's approval of specific operations must be obtained prior to commencement of such operations.

A plan of development should describe the exploratory and development drilling operations and other related operations proposed to be performed within the unit during the coming year and should be revised or supplemented as necessary. Generally, all work that would change a well's producing formation or status, or operations that would require the prior approval of the authorized officer (such as drill deeper, plug back, abandonment, or conversion to an injection well), should be included in the plan of development. Routine stimulation and workover operations need not be covered by a plan of development as long as the resulting producing interval of the well remains within the productive limits of the participating area for the well. Each annual plan must provide for additional exploration and/or development drilling necessary to fully delineate the productive limits within the unit area, or must fully justify the lack of such drilling during the period covered by the plan. Since all proposed wells must be included under an approved plan of development once the initial participating area is established, subsequent unit operations should not be approved by the authorized officer if these operations were not included in the latest approved plan, unless drilling is necessary to protect the unit from drainage.

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When the annual plan of development and operation is reviewed, the authorized officer shall determine whether the exploration and development of the unit, in accordance with good oil field practice, requires the drilling and/or producing of additional wells or the commencement of pressure maintenance or enhanced recovery operations. If further exploration of unit lands outside the participating area(s) is believed necessary, the authorized officer may approve the plan of development, subject to the condition that additional exploratory drilling operations will be required and that a supplemental plan covering such operations must be submitted for approval. The operator may also be requested to submit a new plan which provides for such additional exploratory drilling operations.

Upon approval, one approved copy of the plan of development will be returned to the unit operator; the original will be retained by the approving office; and, if the authorized officer is a State Office official, one copy will be sent to the appropriate District Office.

3. Summary of Operations. Section 10 of the model form of unit agreement (43 CFR 3186.1) requires that a summary of operations be included with the annual plan of development. Such summary should include complete up-to-date maps showing the latest structural and geologic interpretations; all participating area boundaries; a field map showing all wells, flow-lines, and roads; status of all wells; and a summary of all operations conducted during the past year. Any proprietary geologic information should be submitted as a separate report and should be clearly marked by the unit operator on each page as CONFIDENTIAL INFORMATION. Performance graphs covering the productive life of each horizon or reservoir for which a participating area has been established should also be included. The operations summary should be reviewed by the authorized officer to determine that all well completion and production data agree with the data contained in the authorized officer's records.

When additional unit drilling operations are no longer necessary because the area has been fully developed, the authorized officer may require an annual summary of operations to be submitted in lieu of the annual plan of further development and operations. All annual plans and/or summaries should be submitted in triplicate. A plan of development or summary of operations may be requested but not required for a non-Federal form of unit agreement, since BLM supervision is maintained only over Federal and Indian leases in such units.

I. Procedures for Expansion or Contraction of Unitized Areas.

Applications for the expansion or contraction of a unit area should be filed with the authorized officer in accordance with the following procedures.

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1. Filing of the Request. The unit operator shall file two copies of the request with the authorized officer. The request should describe the contemplated changes in the boundary of the unit area, the reasons therefor, and the proposed effective date. Any geologic report justifying the proposed expansion or contraction should be similar to the one that accompanied the application for designation of unit area as logically subject to unitization.

2. Notification of Involved Parties. After the authorized officer has given preliminary concurrence to the request, the unit operator should send out notices of the proposed change of unit area to each working interest owner, lessee, lessor, and State or Federal agency whose interests are affected, advising that 30 days will be allowed for submission to the unit operator of any objections. A copy of the notice should be submitted to the authorized officer. The date on which the expansion or contraction is to be effective should be specified in the notice. Normally, the effective date should be either the first of the month following approval by the authorized officer, or the first of the month following expiration of the 30-day period. A plat clearly showing the current area and the area to be added and/or deleted should be included with the notice.

3. Request for Approval. After the expiration of the required 30 days, an application should be filed in quadruplicate with the authorized officer requesting final approval of the proposed action. The application should include a statement that all principals were provided proper notice, with a copy of any objections that were received by the unit operator. The application should also contain a copy of the notice indicating the proposed effective date.

4. Effective Date of Expansion or Contraction. After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the authorized officer, become effective as of the date prescribed in the notice. The authorized officer should notify the personnel responsible for realty actions of the contraction or expansion so that appropriate action can be taken.

5. Submission of Exhibits and Joinders. Revised Exhibits A and B (43 CFR 3186.1) should be submitted concurrently with or shortly after approval for contractions, but always concurrently for expansions so that the commitment status of new unit tracts can be established. Tract numbers of the new tracts included in the unit area by an expansion should follow the original tract numbers on Exhibits A and B in proper sequence. Tracts that existed prior to the expansion should not be renumbered. For effective commitment of new tracts, in the case of expansions, current signatory parties to the unit agreement who also own interests in the expanded area, and new parties, must submit joinders to the unit agreement and, if a working interest owner, a joinder to the unit operating agreement.

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Section 2(e) of the model form of unit agreement provides for the automatic elimination of lands not entitled to be in a participating area at the end of the initial or extended unit term, if diligent drilling operations are not underway on such nonparticipating lands. Within 90 days of any such automatic elimination of lands, the unit operator must describe to the satisfaction of the authorized officer, all eliminated lands and must also promptly notify all parties in interest. Illustration 1-5A is a suggested format for the authorized officer to request a description of lands automatically eliminated under Section 2(e); while Illustration 1-5B may be used for authorized officer concurrence in the operator's land description.

Illustrations 1-6A and 1-6B are suggested formats for the authorized officer's preliminary and final approval for a unit expansion.

J. Suspensions.

1. Unavoidable Delay. There are three general circumstances that may qualify as unavoidable delay. The three are: (1) when actions by the BLM (or other surface management agency) taken in the interest of conservation prohibit the unit operator from beneficially using the unit area; (2) when events beyond the control of the operator prevent operations in the unit area (force majeure); and (3) when there is a lack of product market due to remote location or, in certain cases, a lack of sufficient demand.

Under Section 25 of the model unit agreement (43 CFR 3186.1), a suspension of the unit operator's drilling obligations for the initial obligation well, multiple obligation wells, and wells required to be drilled under Section 2(e) of the model agreement must be granted when events beyond the operator's reasonable control result in unavoidable delays that prevent the operator from complying with such obligations. Subsequent test well requirements under Section 9 (Drilling to Discovery) may also be suspended for unavoidable delay under Section 25; however, more commonly, the operator will request an extension of time under Section 9 if additional time is required to commence drilling the well. If obligatory drilling has not commenced, temporary relief of drilling obligations may be granted for a period generally not to exceed 6 months, upon receipt of a statement from the unit operator that it has been unable to obtain the necessary rig, casing, or associated equipment, or that adverse weather or other conditions beyond its control prevent commencement or continuance of operations. No unit obligation that is suspended under this section shall become due less than 30 days after such suspension is terminated.

Where a product market is available but the operator wants more for the oil and gas than a purchaser will offer, a suspension should not be granted unless the AO determines that the price offered is significantly less than what that purchaser and other purchasers are offering for like quality oil and gas in the area. Compelling the operator to sell at such an artificially depressed price would not be in the public interest since the royalty value to the Government would be similarly depressed.

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Suspensions under Section 25 apply only to unit requirements and will not serve to extend leases that otherwise would expire. However, if actual drilling operations had commenced and were being diligently conducted when the above referenced problem arose, similar relief could be granted that would serve to hold expiring leases until operations resume or the relief period otherwise is terminated.

2. Suspension of Lease Terms. Pursuant to 43 CFR 3103.4-2(f), the authorized officer may grant a suspension of operations and/or production for any or all leases effectively or fully committed to the unit agreement due to existing circumstances that prohibit the unit operator from drilling and/or producing on unitized land. If suspension of the terms of the Federal leases is desired, the unit operator, on behalf of the lessees, must submit an application requesting such suspension of operations and/or production and indicating whether the suspension is being requested for all or only some of the committed leases. Circumstances that warrant suspension approval must be deemed to be beyond the control of the unit operator, despite the operator's exercise of due diligence.

If a suspension of production and/or operations is granted for a lease in a unit and the unit is subsequently declared invalid, the suspension is valid for the period prior to the unit being declared invalid. This would be true even if the application for suspension was executed only by the unit operator and not by the working interest owners. When a unit that is benefitting from a suspension of production and/or operations is declared invalid, ~~working interest owners must be notified that the suspension will be terminated as of the date the unit is declared invalid, unless sufficient justification for continuation of the suspension is provided. The working interest owners should be given a reasonable period of time to submit this justification.~~

Manual 3160-10, Suspension of Operations and/or Production, provides additional guidance on the various types of lease suspensions.

3. Suspension of Automatic Elimination Provisions of the Unit Agreement. A suspension of the automatic elimination provisions of Section 2(e) may be granted, if justified, due to unavoidable delay. In order to receive this relief, the unit operator must obtain consent from the owners of 90 percent of the working interest and 60 percent of the basic royalty interest (exclusive of the basic royalty interests of the United States) in the current nonparticipating lands.

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A request for this type of suspension may be submitted at any time after the establishment of an initial participating area, but prior to the effective date of the automatic elimination of lands not entitled to participation. If the suspension is approved, it would be effective the first of the month in which the request is received. This type of suspension is normally granted for not more than a two-year period, but may be extended thereafter, subject to an annual review as to whether continuation is warranted. The authorized officer may terminate the suspension at any time it is decided that circumstances warranting the suspension have been resolved. The operator should be provided notice of termination and granted a minimum of sixty days in which to resume unit operations, in order to forestall automatic elimination.

A suspension of the automatic elimination provision serves to extend the initial or second five-year development term for the period of time covered by the suspension. Note that if suspension of the automatic elimination provision is granted during the initial five-year development term of the unit, the operator will likely have additional time to resume drilling to forestall automatic elimination. This time period would be equivalent to the amount of time remaining in the first five-year term at the time the suspension was granted. Of course, if diligent drilling operations are commenced timely in accordance with Section 2(e) after a suspension is terminated, then the automatic elimination date would be further extended by the terms of the unit agreement.

~~Suspension of the Section 2(e) automatic contraction provision would not serve to suspend the operating and producing requirements of any leases committed to the unit agreement, and committed Federal lessees would need to continue making minimum royalty and advanced rental payments during the term of suspension. However, suspension of the automatic contraction date would serve to extend the life of a committed lease since such leases are held by unit production during the period of the suspension.~~

K. Extensions of Time.

There are certain provisions in the model unit agreement (43 CFR 3186.1) under which the automatic elimination date (Section 2(e)), the time within which to fulfill certain drilling requirements (Section 9), and the fixed term of the unit agreement (Section 20) may be extended.

Under Section 2(e) of the model agreement, the automatic exclusion of nonparticipating acreage at the end of the initial five-year unit term may be postponed and an additional five years in the unit term may be obtained if diligent drilling is occurring and pursued on nonparticipating unitized lands within the timeframes stated in the agreement. Section 2(e) allows the authorized officer to approve a further, two-year waiver of the automatic elimination provision, upon consent of the owners of 90 percent of the working interests and 60 percent of the basic royalty interests (exclusive of the basic royalty interests of the United States) in the nonparticipating unitized lands.

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Section 9 of the model unit agreement details the unit operator's drilling requirements and provides for automatic termination of the agreement if these requirements are not satisfied. Except for unit obligation wells, this section of the agreement gives the authorized officer the authority and discretion to grant reasonable extensions of time to meet these requirements. Such an extension (if approved prior to expiration of the initial term of the unit) is granted for a period normally not to exceed 6 months, unless a longer period is deemed justifiable by the authorized officer.

Section 20 of the model agreement provides for extension of the initial five-year unit term upon request of the unit operator and approval of the authorized officer, or upon the discovery of unitized substances in paying quantities on unitized lands. Such a discovery serves to extend the effective term of the unit agreement for so long as unitized substances can be produced in quantities sufficient to pay production costs.

Extensions granted for meeting unit drilling requirements do not toll the running of lease terms. Thus, depending upon the circumstances, a suspension of operations and/or production pursuant to 43 CFR 3103.4-2 and 43 CFR 3165.1 may also be needed to preserve any committed lease that would otherwise expire.

L. Effect of Unit Agreement on Committed Lease Terms, Lease Segregations and Lease Extensions.

When only a portion of a Federal lease is made subject to an approved unit agreement, the lease is segregated into two separate leases, one containing the committed land within the unit, and the other containing the **(uncommitted lands)** [land outside the unit]. The segregated lease covering the nonunitized portion continues for the term of the base lease or for 2 years, whichever is greater, pursuant to 43 CFR 3107.3-2.

The effect of lease segregation on the term of the resultant unitized and nonunitized leases will depend on whether or not the original lease was in extended term by reason of production. A producing Federal lease in its primary term, upon segregation, results in two leases that are separate and distinct. Production on one will not extend the term of the other. Conversely, the segregation of a producing Federal lease in its extended term by production, creates a situation where the production on either lease will serve to extend the term of the other (See Anadarko Production Co., 92 IBLA 212, June 16, 1986, and Celsius Energy Co., Southland Royalty Co., 99 IBLA 53, September 8, 1987.)

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If the unit agreement does not provide for unitization of all formations, Federal leases may be subject to horizontal as well as vertical segregation. Horizontal segregation should be avoided whenever possible and can be averted if a statement advising that it is not the intent of the parties to the agreement that horizontal segregation occur as a result of unitization is submitted by the unit operator with its application for final approval. Upon final approval, the authorized officer should advise the appropriate BLM office that horizontal segregation is not desired.

Once a discovery of unitized substances is made that can be produced in paying quantities (as defined under Section 9 of the model form of unit agreement, 43 CFR 3186.1), a committed Federal lease will continue in force for as long as it remains subject to a unit agreement. In accordance with an Interior Board of Land Appeals (IBLA) decision (67 IBLA 246) dated September 24, 1982 (Yates Petroleum Corp., et al.), a committed Federal lease can be extended by production if a unit well on any lease committed to a unit agreement is capable of production in paying quantities on a lease basis i.e., production in quantities sufficient to cover the cost of production and marketing, but not drilling. This would serve to extend leases committed to a unit plan only for the initial 5-year fixed term of the agreement so long as production in paying quantities on a lease basis is maintained and the unit is still in effect (i.e., all unit obligations are continued throughout the five-year term of the unit.)

Upon the authorized officer's approval of the initial participating area, the unit plan ~~assumes a producing status as defined under Section 11 of the model unit agreement. Once a unit plan is in this status, any Federal lease committed to the plan will remain in effect for as long as it remains subject thereto. However, if production of unitized substances in paying quantities ceases prior to the end of the initial five-year unit term, and operations are not in progress to restore production or to establish new production within 60 days, any individual lease that is in its extended term at that point, solely by reason of its commitment to a producing unit plan, would expire.~~

Federal leases committed to a unit agreement also are eligible for a 2-year extension pursuant to 43 CFR 3107.1, if drilling operations are commenced on unitized land and are being diligently prosecuted across the end of the primary term of the lease. (See also paragraph II-E1 of this Handbook.)

Any Federal lease issued for a fixed term of 20 years, or any renewal thereof (or any portion of such lease) that is committed to a unit plan, will continue beyond its term for as long as it remains committed to the plan (43 CFR 3107.3-3).

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Indian leases are not subject automatically to the Section 18 (Leases and Contracts Conformed and Extended) provisions of the model Federal unit agreement. Accordingly, BIA may insert appropriate language in Section 18 that modifies the terms and conditions which apply to committed Indian leases, with approval of the involved tribe and/or allottees. For this reason, the text of the specific unit agreement must always be consulted to determine the effect of unitization on committed Indian leases.

M. Unleased Federal Lands

On January 29, 1990, BLM field offices were instructed to include in all new Federally-approved oil and gas exploratory unit agreements, a provision requiring the payment of drainage compensation to the Government whenever a unit participating area contains unleased Federal lands. Illustration 4 provides the modified text of sections 12 and 17 that should be used in new agreements.

At the time of designation of a unit area, every effort should be made to identify and, if possible, lease any unleased Federal lands within the designated area. When a unit with unleased Federal lands is approved, an increased effort should be made to lease the Federal acreage, with a requirement for joinder to the unit and unit operating agreements prior to lease issuance (see 43 CFR 3101.3-1.)

If after discovery of unitized substances in paying quantities, the established participating area includes unleased Federal lands, the following steps should be taken. If not already underway, initiate actions to lease the unleased tracts with a stipulation requiring joinder to the unit and unit operating agreements. Advise potential lease applicants that negotiations with the unit operator will be necessary.

Once a successful applicant has been chosen to acquire the lease and evidence of an acceptable joinder has been received, the lease can be issued. In some cases, an acceptable joinder to the unit will not be obtained (e.g., if the unit operator and successful lease applicant can not come to terms on monetary settlements). In such cases, the applicant must provide a statement giving reasons for non joinder that are acceptable to the authorized officer before the lease can be issued. Upon lease issuance without joinder, the lessee must be advised that protection of the Federal lease from drainage will be required. Protection of the Federal lease can be accomplished by drilling an offset well, paying compensatory royalty, entering into a communitization agreement or obtaining a pooling order through the appropriate State agency.

N. Termination.

Most unit agreements contain provisions for automatic or voluntary termination. However, each agreement must be reviewed to determine the circumstances under which such terminations may occur.

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1. Automatic Termination. A Federal exploratory unit agreement will normally terminate 5 years after its effective date unless production of unitized substances in paying quantities, as defined in Section 9 of the unit agreement, has been established, or the term is otherwise extended pursuant to Section 20(a) of the unit agreement. If production of unitized substances in paying quantities is established, the agreement remains in effect for as long as unitized substances can be produced in quantities sufficient to pay for the cost of operation or for the initial 5-year term, whichever is longer. Should production cease beyond the initial 5-year term, the unit agreement will terminate automatically unless diligent operations are in progress within 60 days for the restoration of production or discovery of new production (see Section 20(c) of the model agreement at 43 CFR 3186.1.)

Section 9 of the model unit agreement provides for the drilling of an initial test well within 6 months after unit approval. If the initial well fails to discover unitized substances in paying quantities, the unit operator is required to commence and continue drilling additional wells, allowing not more than 6 months between the completion of one such well and the beginning of the next such well, until a well capable of producing unitized substances in paying quantities is completed to the satisfaction of the authorized officer.

General conditions for satisfying the public interest requirement under an approved unit agreement for unproven areas can be found at 43 CFR 3183.4(b). Failure to commence drilling the initial obligation well, or the first of multiple obligation wells, on time and to drill it diligently shall result in the unit agreement approval being declared invalid ab initio by the AO. In the case of a multiple well requirement, failure to commence drilling the required wells beyond the first well, and to drill them diligently, may also result in the unit agreement approval being declared invalid ab initio by the AO. Failure to timely commence any well required under Section 9 subsequent to the drilling of the initial obligation well or wells (in the case of a multiple well requirement) will result in automatic termination of the unit agreement.

Automatic termination for failure to perform certain required unit actions requires no formal advance notice by the authorized officer or operator. However, the authorized officer must concur in all determinations of automatic termination made by the unit operator. The unit operator should then notify all other interested parties. All terminations by the authorized officer shall be in writing to the unit operator. Illustration 1-7A is an acceptable format for use by the authorized officer in notifying the unit operator of automatic unit termination for failure to meet the production requirements of the unit agreement, while the format shown in Illustration 1-7B may be used in notification of automatic unit termination for failure to meet the drilling requirements of Section 9 of the agreement. Where required by the unit agreement, prior approval by appropriate State officials should be obtained before the authorized officer approves the termination.

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2. Voluntary Termination. Section 20(d) of the model unit agreement states that the parties to the unit agreement may initiate a request for voluntary termination of the agreement at any time prior to the discovery of unitized substances which can be produced in paying quantities, provided the public interest requirement has been satisfied. If the public interest requirement is not met, the approval of the unit by the authorized officer would be invalid. In cases where voluntary termination is requested, the application should be reviewed to ensure that the requisite percentage of working interest approvals has been obtained. The effective date of the termination may not be a date prior to the receipt of an approvable application by the authorized officer. Illustration 1-7C provides a format for the approval of a request for voluntary unit termination. Further clarification as to when a voluntary termination is effective may be found in Aquarius Resources Corp., 64 IBLA 153, May 24, 1982.

0. Amendment of Approved Unit Agreement.

A unit agreement may be amended when such action is justified by circumstances or events not previously anticipated. Amendment of a unit agreement is accomplished in much the same manner as the designation and approval of a unit agreement. A request for preliminary approval of the text of the proposed amendment with supporting data normally is submitted to the authorized officer. After the authorized officer approves the text of the proposed amendment, it is circulated by the unit operator for signature by the owners of interest that are subject to the unit agreement. All parties committed to the agreement must sign or consent to the amendatory language before it may be approved by the authorized officer.

P. Allocation of Production.

Unitized substances normally are allocated to the committed working interest owners in the manner prescribed in the unit operating agreement. Royalty proceeds on this production are allocated to each tract of unitized land within the controlling participating area, normally on the basis of the surface acre percentage each committed tract in the participating area contributes to the total acres of unitized land within the participating area. While noncommitted tracts within a participating area generally receive no allocation from production under the unit agreement, compensatory royalty payments are due the Government for any unleased Federal lands located within a participating area, when provided for in the unit agreement (see Illustration 4 for model text of this provision.)

A situation may be encountered where a communitized area (CA) and a unit participating area (PA) overlap. Illustration 5 shows several examples to follow in allocating production under those circumstances.

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Q. Drainage - Compensatory Royalty.

Section 17 of the model unit agreement provides that the unit operator will take such measures as are necessary to prevent drainage of unitized substances by wells on land not subject to the agreement. Accordingly, any producing non-unit well offsetting unitized land, regardless of the ownership of the land on which such well is located, subjects the unit to possible drainage. Prompt drilling of necessary unit protective wells and/or payment of an appropriate compensatory royalty, as determined by the authorized officer, may be required. Compensatory royalty payments may be due for presumed drainage of unleased Federal lands in a participating area. While all exploratory unit agreements approved since January 29, 1990, should provide for such compensation, older agreements may not. The specific unit agreement must be examined to see if it provides for drainage compensation for unleased lands.

Communitization agreements that include unitized and nonunitized lands in conformity with State spacing requirements also may be used to remedy potential drainage situations. Manual Handbook H-3160-2 provides additional guidelines concerning drainage determinations and computations.

R. Treatment of Existing Wells.

At times, producing or producible oil or gas wells may be present within the area proposed for unitization. When such wells indicate a discovery of questionable significance, the following paragraph should be added to Section 11, Participation After Discovery, of the model unit agreement for unproven areas (43 CFR 3186.1):

Determination as to whether a well completed within the unit area prior to the effective date of this agreement is capable of producing unitized substances in paying quantities shall be deferred, until an initial participating area is established as the result of the completion of a well for production of unitized substances in paying quantities in accordance with Section 9 hereof.

This determination should be made at the time the previously completed well(s) is to be included in a participating area and should be based on the same criteria applied in making any paying well determination. Existing wells should be evaluated for inclusion in a participating area as of the effective date of the initial participating area.

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In unusual cases, where an existing well indicates that a significant discovery of oil or gas has been made on land proposed for unitization, but where additional exploration and development is necessary, an initial participating area based on the information from such wells may be established effective as of the effective date of the unit agreement. However, a participating area application based on such well(s) should not be approved until after a unit test well has been drilled and completed as a paying well under the terms of Section 9 of the unit agreement (43 CFR 3186.1). In this situation, all committed leases including those that otherwise would expire are extended automatically, since the effective date of the participating area and the unit agreement would be the same date. A requirement for the concurrent submission of a plan of operations and development may be added to Section 9, if warranted.

S. Reporting Format for Unit Wells.

For reporting purposes, the unit operator or his delegated party is responsible for submitting all required reports for unit wells, be it a paying or non-paying unit well as long as the well remains on land that is considered committed to the unit agreement. Wells located on non-committed lands or lands that have been automatically eliminated from the unit area, would be reported on a lease basis. A chart detailing how the Automated Inspection Record Systems (AIRS) should be set up for unit wells is presented in Illustration 6.

T. Unit Activity Report.

A unit activity report similar in format to that shown in Illustration 7, should be prepared monthly by the BLM Office having jurisdiction over well operations. This report will be used by the BLM Office that administers the unit agreement to fulfill its responsibilities concerning wells drilled to meet unit obligations, establishment and revision of participating areas, automatic elimination dates, and unit terminations. Guidelines for completing the activity report are also included in Illustration 7.

U. Lease Commitment Status.

Before a Federal lease can be considered for segregation or for benefits by unitization, it must be fully or effectively committed to the unit agreement.

1. Fully Committed (FC). Fully committed indicates that all interest owners in that tract have committed their interests therein. This includes the lessee(s) of record, basic royalty owners in fee tracts, owners of overrides or production payments, if any, and working interest owners if different from the lessee of record. The working interest owners also must have signed the operating agreement. A fully committed tract is subject to segregation, if applicable, and is eligible for all benefits under the unit.

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2. Effectively Committed (EC) or (FC ex OR). Effectively committed indicates that all interest owners, except the owners of overrides or production payments have signed. An effectively committed tract is also subject to segregation, if applicable, and is eligible for all benefits under the unit.

3. Partially Committed (PC). In reference to a fee tract, partially committed indicates that the basic royalty interest owner has not signed the unit agreement, but the lessee and working interest owner have committed their interests. Absent joinder by the basic royalty owner, such interest may be considered committed only if the underlying lease empowers the lessee/working interest owner to commit that interest to the unit agreement. A State or Federal tract is considered partially committed to the unit agreement when the lessee of record has not signed but the working interest owner has committed its interests (Note: In some States, commitment under a State or fee tract by a lessee of record who owns no working interest is considered unnecessary, and the tract may be considered as fully or effectively committed without such signature.) A partially committed lease is not subject to segregation or any benefit by unit operations unless there are actual operations and/or production on the lease itself, or it is included within and receives an allocation of production from an approved participating area. Unitized drilling is permissible on a partially committed tract, however, if unitized production is obtained on such a tract and a participating area is established on the basis thereof, the entire production must be allocated to the participating area, and the responsible working interest owner must pay the noncommitted parties their just royalty on a leasehold basis.

4. Not Committed (NC). Any tract in which a working interest has not committed, regardless of other committed interest, is considered as not committed and is not subject to the unit agreement.

V. Designation of Agent.

Whenever a party other than the unit operator files an application for permit to drill a well on unitized land, the application must include an acceptable Designation of Agent from the unit operator (Illustration 2-4). This designation covers only the drilling and completion of the well, and must clearly state who has authority to operate the well, once completed. If the well encounters unitized substances capable of being produced in paying quantities, as defined in Section 9 of the unit agreement (43 CFR 3186.1), then either the unit operator will take over operation of the well or the designated agent will be named as successor unit operator and assume responsibility for operating the well. If a well is completed as a nonpaying unit well and a party other than the unit operator is designated to operate the well, the unit operator will remain ultimately responsible for all legal and regulatory obligations related to such operations, as long as the well is located on land that is considered committed to the unit agreement.

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Illustration 2-5 provides a model form for the delegation of authority to operate a non-paying unit well. If a form different from that in Illustration 2-5 is submitted for approval, either the form itself or the authorized officer's approval must clearly reference the responsibilities and obligations retained by the unit operator for operation of this well.

W. Designation of Suboperator.

Except as provided above, all operations on unitized land must be performed by the unit operator, and designations of a suboperator will not be accepted or approved unless it is the only way to (1) allow operations in a unit involving special projects or operating techniques that could be handled more appropriately by a party other than the unit operator; or (2) prevent the premature termination of a unit agreement or the abandonment of marginal production. In such cases, suboperators must file all necessary reports covering all unit operations and production for which they are responsible as designated suboperators.

In extreme cases, the authorized officer may accept certain unit work to be performed and reports filed in behalf of or under the unit operator's name by a nonunit operator. This is considered as work performed by the unit operator, and acceptance of such work or reports does not relieve the unit operator of any obligation or responsibility under the unit agreement.

X. Successor Unit Operator.

Procedures for selecting a successor unit operator are included in Section 6 of the model unit agreement (43 CFR 3186.1) to provide orderly succession if the unit operator resigns or is removed. Generally, this succession is accomplished through the approval of an instrument executed by or on behalf of the unit operator, the successor unit operator, and the owners of committed working interests. That instrument provides for the resignation of the unit operator, acceptance by the successor unit operator of the duties and responsibilities of unit operator, as described in Section 4 of the model form, and approval of the new unit operator by owners of committed working interests in the manner prescribed in the unit agreement (Section 6 of the model form) or unit operating agreement, as appropriate.

The authorized officer may accept a Designation of Successor Operator which has not been formally ratified by working interest owners, provided the successor operator certifies in writing that it has obtained the required working interest owner approvals. The authorized officer's written approval of such a designation (see Illustration 1-8A) shall include and be subject to the following, or similar disclaimer:

"In approving this designation, the Authorized Officer neither warrants nor certifies that the designated party has obtained all required approvals that would entitle it to conduct operations under the _____ Unit Agreement."

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Normally, if no successor unit operator is selected and qualified within a reasonable period of time, the authorized officer shall declare the unit agreement terminated. The Successor Operator Instrument in Illustration I-8B may be used for the concurrent resignation of a unit operator and designation of a successor operator.

Y. Bankrupt Unit Operator.

A unit operator who declares bankruptcy may continue to operate the unit if he so desires. The Bureau lacks the authority to unilaterally remove a unit operator simply because they have declared bankruptcy. Section 5 of the model form of unit agreement (43 CFR 3186.1) provides for such removal of a unit operator, for whatever reason, by consent of a majority of the working interest owners.

If a unit operator declares bankruptcy, then the Bureau may accept an appointed agent to act on behalf of the operator to ensure compliance with all applicable requirements of the unit agreement and regulations. Acceptance of an agent can occur even if the unit operating agreement is rejected as an executory contract. Our acceptance of an agent does not relieve the unit operator of his/her ultimate responsibility for compliance with all the terms and conditions of the unit agreement. Our acceptance of an agent should terminate if a sale of the unit properties is consummated because the purchaser should assume all unit responsibilities. Where unassumed liabilities exist, the BLM may be able to take action against a bankrupt operator's unit bond, since a bond is not considered an asset of the bankrupt debtor's estate.

Z. Subsequent Joinder and Late Joinder.

The commitment of oil and gas interests in lands within the unit area subsequent to final approval of the unit agreement is governed by the appropriate provisions of the agreement (Section 28 of the model form, 43 CFR 3186.1).

Usually, once operations are commenced, the unit agreement allows the commitment of a working interest by the owner who signs joinders to both the unit and unit operating agreements and obtains such approvals of the owners of committed working interests as may be required by the unit operating agreement. Such joinders should be accompanied by a statement from the unit operator that the terms of the unit operating agreement have been satisfied.

A nonworking interest may be committed to a unit agreement by the owner of the interest signing a joinder to the unit agreement and the owner of the corresponding committed working interest approving the commitment of said interest. Normally, a nonworking interest may not be committed to a unit agreement unless the corresponding working interest is committed thereto. In order for a working interest to be committed to a unit agreement, it must also be committed to the unit operating agreement.

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Illustrations 1-9A and 1-9B are suggested formats for use by the authorized officer in approving subsequent and late joinders to the unit agreement.

AA. Bond Requirements.

The operator of a Federally approved unit must furnish a bond prior to the commencement of any surface disturbing activities on a Federal lease. Such a bond must be conditioned on faithful performance of duties and obligations under the unit agreement and the terms and conditions of all Federal leases subject thereto, and be for an amount that the authorized officer shall determine to be adequate to protect the interests of the United States. The bond may be posted by one of the following three methods:

1. The unit operator may post a unit bond to cover operations on Federal leases committed to a specific unit in the language of the sample at 43 CFR 3186.2. The amount of the unit bond must not be less than \$25,000. In the event of unit contraction, lands excluded from the unit area should be checked for proper bond coverage.

2. The unit operator may use his own statewide/nationwide bond to cover operations on Federal leases committed to the unit. If his statewide/nationwide bond was filed on a pre-1987 edition of the bond form, the unit operator should attach an operator rider which extends coverage of the bond to all leases he operates, whether or not he owns an interest in the leases. The unit operator in accordance with 43 CFR 3104.4 may submit a unit operator rider covering his operations on that specific unit to the statewide/nationwide bond.

3. The unit operator may be covered on Federal leases committed to the unit under another lessee/sublessee's individual lease/statewide/nationwide bond provided that, in accordance with regulations at 43 CFR 3104.2, a consent of surety, or the obligor in the case of a personal bond, to include the operator under the coverage of the (lessee's) bond is furnished to the BLM Office maintaining the bond. If the unit operator utilizes his own individual lease bond, the coverage will only apply to that specific lease and will not cover operations on other committed Federal leases within the unit.

A designated agent (or sub-operator) may conduct operations under his own bond or under the unit operator's bond or under the lessee's bond with consent of surety. A statement must be submitted by the unit operator identifying the type of bond coverage to be used to cover operations on the Federal leases committed to the unit, including the BLM Bond Number. A bond is not required for Federal leases receiving allocated production. The authorized officer may, when justified, require an increase of the bond amount in accordance with 43 CFR 3104.5.

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AB. Development or Operation of Nonparticipating Lands.

Whenever the owner of a working interest in unitized land and the unit operator are unable to reach agreement providing for the drilling of a desired test well, the working interest owner may cause the well to be drilled at its sole risk and expense. If the well is to test a formation for which a participating area has been established, it must be drilled at a location outside the existing participating area. Operations on noncommitted land not subject to the unit agreement are approved on an individual lease basis.

Whenever a party other than the unit operator files an application for a permit to drill a well on unitized land, it may be accompanied by a Designation of Agent from the unit operator. Adequate bond coverage must be provided. Such designation must clearly state, or be approved conditioned upon the requirement that the unit operator will assume the operation of such well if it is determined to be capable of producing unitized substances in paying quantities. If the completed well is capable of producing unitized substances in paying quantities, it must either be turned over to the unit operator for operation or the operator of the well must take over as successor unit operator, since only one operator may be responsible for unit operations. If the well is determined to be nonpaying under the terms of the unit agreement, it will be operated and produced on a lease or spacing unit basis, as appropriate.

AC. Non-Federal Form of Unit Agreement.

If Federal lands proposed for inclusion in a unit comprise less than 10 percent of the unit area, a non-Federal form of unit agreement may be used. Typically, an American Petroleum Institute (API) model agreement is submitted. Procedures for processing and administering non-Federal form unit agreements involving Federal lands should be consistent within the BLM. The authorized officer should take an active role in approving and monitoring such agreements. Unit regulations set forth in 43 CFR 3181-3185 may be applied to non-Federal form agreements, as appropriate. Specifically, the unit proponent should be asked to initiate a preliminary review process that allows for authorized officer concurrence with the proposed unit boundary and with the proposed terms of the unit agreement. Following preliminary review and concurrence by the authorized officer, the unit operator should submit the executed agreement for final approval. These types of agreements normally are approved by a State jurisdictional agency.

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If the authorized officer agrees to the commitment of Federal land to the unit agreement, then the authorized officer executes an approval letter and a modified certification-determination page (see Illustration 1-2B.) An agreement number should be assigned and reflected on the modified certification-determination page. The certification-determination page should contain a statement that site security, measurement, reporting of production and operations, and assessments or penalties for noncompliance with such requirements found in 43 CFR Part 3160 are applicable to any well and facility on land considered committed to the unit agreement which affects Federal interests. References to the article provisions in the modified certification-determination page should be checked for conformance with the articles in the unit agreement.

Upon final approval of a unit agreement, all committed Federal leases are subject to the provisions of 43 CFR 3107 concerning Federal leases committed to units and cooperative plans. A Federal lease committed to an approved unit agreement is subject to segregation and any corresponding extensions. A Federal lease committed to an approved unit agreement will not expire by its own terms if the agreement is considered producing.

If the authorized officer deems the non-Federal from of unit agreement to be not in the public interest, then the unit agreement should not be approved. Consequently, the terms and provisions of the agreement would not apply to the Federal lands and such lands would have to be operated and administered on a leasehold basis.

AD. Indian Land.

1. Special Provisions in Unit Agreement.

Many of the basic provisions of the model Federal unit agreement (43 CFR 3186.1) are generally applicable for exploratory unit agreements involving Indian lands; however, various modifications and/or additions may be required by the BIA or the Indian tribe. Appropriate language also must be included in the proposed unit agreement to provide for the preferential hiring of available Indian labor. The following language from a unit agreement involving both allotted and tribal Indian land and private land provides an example, but is not intended to represent a standard format.

1. Whereas Section. Whereas, the rules and regulations governing the leasing of restricted allotted and tribal Indian lands for oil and gas promulgated by the Secretary of the Interior (25 CFR Part 211 and 212) under and pursuant to the Allotted Land Mineral Leasing Act of March 3, 1909, 35 Stat. 783, 25 U.S.C. 396, and the Tribal Land Mineral Leasing Act of May 11, 1938, 52 Stat. 347, 25 U.S.C. 396a et seq., and the oil and gas leases covering said allotted and tribal Indian lands provide for the commitment of such leases to a cooperative or unit plan of development or operations.

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2. Enabling Act and Regulations. The Indian Tribal and Allotted Leasing Acts, supra, and all valid pertinent regulations, including operating and unit plan regulations, heretofore issued thereunder or valid pertinent and reasonable regulations hereafter issued thereunder are accepted and made a part of this agreement as to Indian lands, provided such regulations are not inconsistent with the terms of this agreement.

3. Expansion of Unit Area. The unit area may, therefore, with approval of the Commissioner of the Bureau of Indian Affairs or his duly authorized representative hereinafter referred to as 'Commissioner', be expanded to include therein any additional tract or tracts. (Note: Requires preliminary recommendations by the BLM.)

4. Indian Employment. The unit operator shall comply with the terms and conditions of the leases on Indian lands with respect to the employment of available Indian labor while engaged in operations hereunder.

The normal responsibilities of the authorized officer with respect to approvals of successor unit operator, plans of development, establishment and revision of participating areas, and other unit activities will be done in accordance with the Memorandum of Understanding between the Bureau of Land Management, Bureau of Indian Affairs, and Minerals Management Service Regarding Working Relationships Affecting Mineral Lease Activities. For units involving only Indian land or Federal and Indian lands, these provisions and other appropriate references to Indian lands may be incorporated in the model Federal form prior to circulation of the agreement for execution. Where both Federal and Indian lands are involved, the authorized officer's approval of such actions should be made after approvals are obtained from the Bureau of Indian Affairs and the Indian owners.

2. Procedures for Unitization of Indian Lands.

In summary, the steps in the unitization of Indian lands are:

- a. The authorized officer's review of the proponent's proposal with recommendations furnished to the Bureau of Indian Affairs (may be in the form of a proposed letter designating the area as logically subject to unitization).
- b. Preliminary approval of agreement by BIA and/or the Indian tribe. (BIA's concurrence may be indicated in a memorandum or by endorsement of the proposed designation letter.)

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c. Designation of the area as logically subject to unitization by the authorized officer. (If no Federal lands are involved, BIA may show approval of the proposal by a letter indicating preliminary approval of the proposal to unitize and approval of the text of the proposed unit agreement.)

d. Approved form of unit agreement is circulated to interest owners for execution.

e. The executed agreement is submitted to the authorized officer for review and forwarding with recommendations to BIA.

f. Final approval by BIA (Indian owners should have approval prior to submission of executed agreement). If Federal lands are also involved, BIA returns the approved agreement to the authorized officer for approval, which should determine the effective date of the agreement.

AE. State Agencies.

The control of specific operations on State and fee lands is the general responsibility of the appropriate State regulatory agency. Some earlier versions of the model form of unit agreement for unproven unit areas incorporate provisions which provide parallel authority to be exercised by State agencies, as appropriate. Generally, any provisions which a State wishes to include in a unit agreement will be acceptable as long as they do not adversely affect Federal/Indian lands or the authorized officer's authority and responsibility. Illustration 8 provides an example of State land provisions that may be found in joint Federal/State agreements.

If a proposed unit includes lands which are subject to existing State spacing orders covering unitized formations, the BLM may recommend to the unit proponent that a request be made to have the spacing order, as it applies to the unit area, rescinded. Some BLM offices have an agreement with the corresponding State agency whereby, whenever the BLM approves a unit agreement, the spacing order is automatically vacated as it applies to the unit area. This generally is the preferable situation. However, it is recognized that in some circumstances it is necessary to retain State spacing within the unit area to provide a means for allocating production (i.e., when the unit area contains prior unit wells that have been communitized or when non-committed tracts within the unit area would be eligible for production allocation under the spacing order). In these cases, spacing should be accepted in the unit area unless the authorized officer determines that such spacing is not in the public interest.

H-3180-1 - UNITIZATION (EXPLORATORY)

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Bibliography

Ashland Oil, Inc., et al., 7 IBLA 58 (August 9, 1972), which determined that an oil and gas lease extended only by reason of its inclusion in a producing unit is not within its "primary term."

Martin Yates III, et al., 7 IBLA 261 (September 15, 1972), concerning the effect of unitization on 20-year oil and gas leases.

Amoco Production Company, 10 IBLA 215 (April 3, 1973), concerning royalty computation on unitized leases.

Atlantic Richfield Company, 16 IBLA 329 (August 14, 1974), concerning royalty computation on unitized leases.

Marathon Oil Company, 16 IBLA 298 (August 14, 1974), concerning royalty computation on unitized leases.

Bruce Anderson, 30 IBLA 179 (May 19, 1977), concerning nonjoinder and subsequent joinder to a unit agreement.

Aquarius Resources Corp., 64 IBLA 153 (May 24, 1982), concerning voluntary termination of a unit agreement.

Yates Petroleum Corp., et al., 67 IBLA 246 (September 24, 1982), concerning extension of leases committed to unit agreement by production in paying quantities.

Conoco, Inc., 80 IBLA 161 (April 11, 1984), concerning consolidation of oil and gas leases.

Anadarko Production Co., 92 IBLA 212 (June 16, 1986), concerning oil and gas lease segregation and extension.

Celsius Energy Co. and Southland Royalty Co., 99 IBLA 53 (September 8, 1987), concerning oil and gas lease segregation and extension.

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Champlin Petroleum Company, 100 IBLA 157 (December 3, 1987), concerning the inclusions of lands in a participating area considered necessary for unit operations.

Coors Energy Co., 110 IBLA 250 (September 11, 1989), concerning protection of the Federal royalty interest in unleased Federal lands in units.

Solicitor's Opinion M-36629 concerning constructive production. A unitized lease shall not be subject to automatic termination for failure to pay rental if there is a producing or producible well anywhere in the unit, June 25, 1962.

Solicitor's Opinion M-36776 concerning horizontal lease segregation when less than all formations are unitized, May 7, 1969.

Solicitor's Opinion interpreting the unitization provisions of the Mineral Leasing Act, June 4, 1973.

Unitization Instructions, Northern Rocky Mountain Area (May 1, 1972).

H-3180-1 - UNITIZATION (EXPLORATORY)

FORM LETTERS AND NOTICES USED IN UNITS ADMINISTRATION

H-3180-1 - UNITIZATION (EXPLORATORY)

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H-3180-1 - UNITIZATION (EXPLORATORY)

Unit Designation Letter

Gentlemen:

Your application of _____, filed with the (BLM office name) _____, requests the designation of _____ acres, more or less, in _____ County, _____, as logically subject to exploration and development under unitization provisions of the Mineral Leasing Act, as amended.

Pursuant to unit plan regulations 43 CFR Part 3180, the land requested, as outlined on your plat marked "Exhibit 'A', _____" is hereby designated as a logical unit area.

The unit agreement to be submitted for the area designated should provide for a well located in the _____ of Section _____ Township _____ Range _____, _____ County, _____ to test the _____ Formation or to a depth of _____ feet. Your proposed use of the Form of Agreement for Unproven Areas at 43 CFR 3186.1, modified only as shown in your application, will be accepted.

If conditions are such that further modification of said standard form is deemed necessary, two copies of the proposed modifications with appropriate justification must be submitted to this office for preliminary approval.

In the absence of any other type of land requiring special provisions or of any objections not now apparent, a duly executed agreement identical with said form, modified only as outlined above, will be approved if submitted in approvable status within a reasonable period of time. However, notice is hereby given that the right is reserved to deny approval of any executed agreement submitted that, in our opinion, does not have the full commitment of sufficient lands to afford effective control of operations in the unit area.

Please include the latest status of all acreage when the executed agreement is submitted for final approval. The format of the sample exhibits attached to the model unit agreement (43 CFR 3186.1) should be followed closely in the preparation of Exhibits A and B. A minimum of _____ copies of the executed agreement should be submitted with your request for final approval.

H-3180-1 - UNITIZATION (EXPLORATORY)

Optional Paragraph

Inasmuch as this unit area contains State of _____ lands, we are sending a copy of this letter to the State (appropriate agency) at _____, and we hereby request that you contact the State promptly in connection with this letter before soliciting joinders.

Sincerely yours,

(Authorized Officer)

cc: Appropriate District or Resource Area Office
 BIA (if appropriate)
 State Agency (if appropriate)
 Surface Management Agency (if appropriate)

H-3180-1 - UNITIZATION (EXPLORATORY)

Unit Approval Certification-Determination Page
(Federal Form Agreement)

CERTIFICATION-DETERMINATION

Pursuant to the authority vested in the Secretary of the Interior, under the Act approved February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. sec 181, et seq., and delegated to the Authorized Officer of the Bureau of Land Management, under the authority of 43 CFR 3180, I do hereby:

A. Approve the attached agreement for the development and operation of the _____ Unit Area, State of _____. This approval shall be invalid *ab initio* if the public interest requirement under § 3183.4(b) of this title is not met.

B. Certify and determine that the unit plan of development and operation contemplated in the attached agreement is necessary and advisable in the public interest for the purpose of more properly conserving the natural resources.

C. Certify and determine that the drilling, producing, rental, minimum royalty and royalty requirements of all Federal leases committed to said Agreement are hereby established, altered, changed or revoked to conform with the terms and conditions of this agreement.

Dated: _____, 19__

(Authorized Officer)
Bureau of Land Management

Contract No: _____

H-3180-1 - UNITIZATION (EXPLORATORY)

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H-3180-1 - UNITIZATION (EXPLORATORY)

Unit Approval Certification-Determination Page
(Non-Federal Form Agreement)

CERTIFICATION-DETERMINATION

Pursuant to the authority vested in the Secretary of the Interior, under the act approved February 25, 1920, as amended (41 Stat. 437, 30 U.S.C. 181, et seq.) and delegated to the Authorized Officer of the Bureau of Land Management by Order of the Secretary of the Interior, I do hereby:

A. Approve the attached agreement for the development and operation of the _____
___ Unit, _____ County, _____.

B. Certify and determine that the unit plan of development and operation contemplated in the attached agreement is necessary and advisable in the public interest for the purpose of more properly conserving the natural resources.

C. Certify and determine that the drilling, producing, rental, minimum royalty, and royalty requirements of the Federal lands committed to said agreement are hereby established, altered, changed, or revoked to conform with the terms and conditions of this agreement, except as follows:

1. The provisions of Article 6.3* requiring a party to bear any extra expenditures incurred in the taking in kind or separate disposition of its proportionate share of the production shall be ineffective as to any royalty which may be taken in kind by the Federal Government.
2. The provisions of Article 6.6* relative to the royalty free recovery of Outside Substances shall be rendered ineffective as to Federal lands. In the event an Outside Substance is injected into a Unitized Formation, its recovery on royalty free basis shall be in accordance with such formula as the Authorized Officer may approve or prescribe.
3. The provisions of Article 9.2* shall be ineffective as to Federal lands.
4. Regulations relating to site security, measurement, reporting of production and operations, and assessments or penalties for noncompliance with such requirements are applicable to all wells and facilities on State or privately-owned mineral lands committed to the unit agreement which affect Federal or Indian interests, notwithstanding any provision of the unit agreement to the contrary.

H-3180-1 - UNITIZATION (EXPLORATORY)

(Optional) 5. In the event the lands subject to this agreement are re-surveyed, the Federal Government shall have the right to require a redetermination of tract participation percentage for the Federal tracts subject to this agreement.

Approved: _____ Date: _____
(Authorized Officer)
Bureau of Land Management

Contract No.: _____

* The actual agreement should be reviewed to ensure the articles are consistent with the intent.

H-3180-1 - UNITIZATION (EXPLORATORY)

Unit Approval Letter

Gentlemen:

The _____ Unit Agreement, _____ County, _____,
was approved on _____, 19____. This agreement has been assigned Number _____X and is
effective as of the date of approval.

The basic information is as follows:

1. No oil and gas has been discovered in the unit area. The depth of
the test well and the area to be unitized were approved by letter dated
_____, 19____.

2. _____ formation(s) are unitized.

3. The unit embraces _____ acres, more or less, of which _____ acres (____ percent) are Federal
lands, _____ acres (____ percent) are Indian lands, _____ acres (____ percent) are State lands, and
_____ acres (____ percent) are patented lands.

4. The following Federal leases embrace lands within the unit area:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

*Indicates committed leases to be considered for segregation pursuant to Section 18(g)
of the unit agreement, Public Law 86-705, and
43 CFR 3107.3-2.

All lands and interests are fully committed except Tracts _____, totaling
_____ acres (____ percent) which are not committed and Tracts _____, totaling _____ acres (____ percent)
which are partially committed. Certain overriding royalty interest owners have not signed the unit
agreement. All parties owning interests within the unit were invited to join the unit agreement.

H-3180-1 - UNITIZATION (EXPLORATORY)

In view of the foregoing commitment status, effective control of operations within the unit area is assured. We are of the opinion that the agreement is necessary and advisable in the public interest and for the purpose of more properly conserving natural resources.

This unit provides for the drilling of an "obligation well" and subsequent drilling obligations pursuant to Section 9 of the unit agreement. The obligation well is considered to be a contractual commitment on the part of the Unit Operator. No extension of time beyond _____, 19__, will be granted to commence the obligation well other than "unavoidable delay" (Section 25), where justified. Any extension granted for "unavoidable delay" requires convincing written justification and documentation prior to the critical date, and is limited to 30 days with possible renewal for 30-day periods if the delay is extensive, with timely written documentation for each extension.

Pursuant to 43 CFR 3183.4(b) and Section 9 of the unit agreement, if the Public Interest Requirement is not fulfilled, the unit will be declared invalid and no lease committed to this agreement shall receive the benefits of 43 CFR 3107.3-2 and 3107.4.

Approval of this agreement does not warrant or certify that the operator thereof and other holders of operating rights hold legal or equitable title to those rights in the subject leases which are committed hereto.

Copies of the approved agreement are being distributed to the appropriate Federal offices. You are requested to furnish all interested parties with appropriate evidence of this approval.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager _____ w/enc
 _____ Unit File
 Lease Adjudication Section
 MMS-RMP Reference Data Branch w/exhibit B
 State Land Board

H-3180-1 - UNITIZATION (EXPLORATORY)

Non Paying Well Determination Notice

19

Re: _____

Gentlemen:

Pursuant to your request of _____, it has been determined by this office that under existing conditions the _____ Unit Well No. _____, _____ Lease No. _____, Unit Tract No. _____, located in the _____¹/₄ _____¹/₄, Section _____ Township _____, Range _____, _____ County, _____ is not capable of producing unitized substances in paying quantities as defined in Section 9 of the unit agreement. Production from this well shall be handled and reported on a lease basis.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager _____
Unit File _____
Lease Adjudication Section _____
MMS-RMP Reference Data Branch _____

H-3180-1 - UNITIZATION (EXPLORATORY)

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Initial Participating Area Approval Letter

_____ 19 ____

Re: Initial _____ Formation PA " ____ "

_____ Unit
_____ County, _____

Gentlemen:

The Initial _____ Formation Participating Area, " ____ " Unit, _____, is hereby approved effective as of _____, 19____, pursuant to Section 11 of the _____ Unit Agreement, _____ County, _____.

The Initial _____ Formation Participating Area results in an Initial Participating Area of _____ acres and is based upon the completion of Unit Well No. _____, located in the ____ $\frac{1}{4}$ ____ $\frac{1}{4}$, Section _____, Township _____, Range _____, _____, Unit Tract No. _____, Lease No. _____, as being a well capable of producing unitized substances in paying quantities. Enclosed is a schedule showing the lands and their percentage of allocation in the participating area. Copies of the approved request are being distributed to the appropriate agencies and one copy is returned herewith. Please advise all interested parties of the establishment of the _____ Formation Participating Area, _____ Unit, and the effective date.

H-3180-1 - UNITIZATION (EXPLORATORY)

For production and accounting reporting purposes all submissions pertaining to the _____ participating area should refer to _____ (appropriate participating area identifier).

If the subject well is producing, this approval requires the submission of a Payor Information Form MMS-4025 to the Minerals Management Service (MMS) within 30 days (30 CFR 210.51). Please notify the designated payor or payors as soon as possible regarding this requirement. Any producing royalties that are due must be reported and paid within 90 days of the Bureau of Land Management's approval date or the payors will be assessed interest for late payment under the Federal Oil and Gas Royalty Management Act of 1982 (See 30 CFR 218.54). If you need assistance or clarification, please contact the Minerals Management Service at 1-800-525-9167 or 303-231-3504.

Sincerely,

(Authorized Officer)
Bureau of Land Management

Enclosure

bcc: District Manager _____
Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch w/exhibit B

H-3180-1 - UNITIZATION (EXPLORATORY)

For production and accounting reporting purposes all submissions pertaining to the _____ participating area should refer to _____ (appropriate participating area identifier).

If the subject well is producing, this approval requires the submission of a Payor Information Form MMS-4025 to the Minerals Management Service (MMS) within 30 days (30 CFR 210.51). Please notify the designated payor or payors as soon as possible regarding this requirement. Any producing royalties that are due must be reported and paid within 90 days of the Bureau of Land Management's approval date or the payors will be assessed interest for late payment under the Federal Oil and Gas Royalty Management Act of 1982 (See 30 CFR 218.54). If you need assistance or clarification, please contact the Minerals Management Service at 1-800-525-9167 or 303-231-3504.

Sincerely,

(Authorized Officer)
Bureau of Land Management

Enclosure

bcc: District Manager _____
Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch w/exhibit B

H-3180-1 - UNITIZATION (EXPLORATORY)

Automatic Contraction Concurrence Letter

_____ 19 _____

Re: Automatic Contraction

Unit

County, _____

Gentlemen:

Your letter of _____, 19____, describes the lands automatically eliminated effective
_____, 19____ from the _____ Unit, _____ County,
_____, pursuant to Section 2(e) of the unit agreement and requests our concurrence. The
lands you have described contain _____ acres, more or less, and constitute all legal subdivisions,
no parts of which are in the _____ Participating Area "____" _____,
_____, Participating Area "____" _____,
Participating Area "____" _____, and the _____ Participating Area
"____" _____. As a result of the automatic elimination, the unit area is reduced from
_____ acres to _____ acres.

The following Federal leases are entirely eliminated from the unit area.

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

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The following Federal leases are partially eliminated from the unit area.

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

The following Federal leases are contained entirely within the unit area.

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

You have complied with the requirements of Section 2(e), provided you promptly notify all interested parties.

Sincerely,

(Authorized Officer)
Bureau of Land Management

Enclosure

bcc: District Manager _____ w/enc
Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch w/exhibit B
State Oil and Gas Regulatory Agency
State Land Board

H-3180-1 - UNITIZATION (EXPLORATORY)

Request For Lands Automatically Eliminated from Unit

_____ 19 _____

Re: Automatic Contraction
_____ Unit
_____ County, _____

Gentlemen:

All legal subdivision of lands (i.e., 40 acres by government survey or its nearest lot or tract equivalent) no part of which is the _____ Participating Area "_____",
_____ Unit Agreement, _____ County, _____, were
automatically eliminated from the unit area effective _____, 19____, pursuant to
Section 2(e) of the unit agreement.

You are requested to timely submit a description of the lands eliminated within 90 days after the effective date of the automatic elimination, as required by Section 2(e). Revised Exhibits "A" and "B" should also be submitted showing the lands remaining in the unit area.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager _____
_____ Unit File
Lease Adjudication Section

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Preliminary Approval for Unit Expansion Letter

_____ 19 _____

Re: Preliminary Approval of the
Proposed Expansion of the
_____ Unit
_____ County, _____

Gentlemen:

Your application of _____, 19_____, requests preliminary approval of the proposed expansion of the _____ Unit Area, _____ County, _____. This expansion will add _____ acres to the _____ acre unit, resulting in an enlarged unit area of _____ acres, more or less.

* The expansion of the unit must provide for an obligation well to test the upper _____ feet of the _____ Formation. The obligation well will be located in the _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ Section _____, Township _____, Range _____, _____ County, _____. The well must commence drilling operations within 6 months after final approval. Said obligation shall be considered the Public Interest Requirement pursuant to 43 CFR 3183.4(b). Should you fail to meet the Public Interest Requirement, this expansion will be invalidated *ab initio*.

The expansion is regarded as acceptable on the basis of the geologic/reservoir information accompanying your application. We hereby concur in the proposed expansion, provided it is accomplished pursuant to Section 2 of the unit agreement. The effective date of the proposed expansion will be _____, 19_____, in accordance with your application, pursuant to Section 2(a).

* Optional paragraph for use when an obligation well will be required.

H-3180-1 - UNITIZATION (EXPLORATORY)

Final Approval for Unit Expansion Letter

_____ 19____

Re: Final Approval _____ Expansion
_____ Unit
_____ County, _____

Gentlemen:

The _____ Unit, _____ County, _____, was approved _____, 19____. Request for final approval for expansion of the unit was received by letter dated _____, 19____. All of the requirements set forth in Section 2 of the unit agreement have been fulfilled. Said expansion is hereby approved, to be effective as of _____, 19____.

The basic information is as follows:

1. The expansion of the unit area was given preliminary approval by Bureau letter dated _____, 19____.
2. As a result of the expansion, the unit area is increased from _____ acres to _____ acres, more or less, of which _____ acres (____ percent) are Federal lands, _____ acres (____ percent) are State lands, and _____ acres (____ percent) are patented lands.
3. The following Federal leases embrace lands within the expanded unit area:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

*Indicates committed leases to be considered for segregation pursuant to Section 18(g) of the unit agreement, Public Law 86-705, and 43 CFR 3107.3-2.

H-3180-1 - UNITIZATION (EXPLORATORY)

4. All lands in the expanded area are fully committed except Tracts ____, totaling ____ acres (____ percent) which are not committed and Tracts ____, totaling ____ acres (____ percent) which are partially committed. Certain overriding royalty interest owners have not signed the unit agreement.

In view of the foregoing commitment status, effective control of operations within the expanded unit area is assured. We are of the opinion that the expansion is necessary and advisable in the public interest for the purpose of more properly conserving natural resources.

* The unit expansion provides for the drilling of one "obligation well" pursuant to our preliminary approval of ____, 19____. The obligation well will be located in the ____ of Section ____, T. ____, R. ____, ____ County, ____ and will be drilled to a depth of ____ feet or to a depth sufficient to test the upper ____ feet of the ____ Formation. Failure to commence drilling the obligation well within the expanded area, if required, within 6 months of the approval date will result in this expansion being invalidated ab initio. No extension of time will be granted to commence the obligation well other than that justified as "unavoidable delay" under Section 25 of the unit agreement.

Approval of this expansion does not warrant or certify that the operator thereof and other holders of operating rights hold legal or equitable title to those rights in the subject leases which are committed hereto.

Copies of the approved expansion are being distributed to the appropriate Federal offices. You are requested to furnish all interested parties with appropriate evidence of this approval.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager, ____
Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch w/exhibit B
State Oil and Gas Regulatory Agency
State Land Board

* Optional paragraph for use when an obligation well is required.

H-3180-1 - UNITIZATION (EXPLORATORY)

Automatic Unit Termination Notice
for Cessation of Production

_____ 19____

Re: _____ Unit _____ County, _____

Gentlemen:

The _____ Unit, No. _____ X, _____ County, _____,
automatically terminated effective _____, 19____, in accordance with Section 20(c)
of the unit agreement.

The termination is based on the plugging of Well No. _____ located in the _____¹/₄
_____ ¹/₄, Section _____, Township _____, Range _____, on _____, 19____, as the last well
within a participating area capable of producing unitized substances in quantities sufficient to pay
for the cost of producing same from said well.

Please advise all interested parties of this unit termination and its effective date.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager _____
_____ Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch
State Oil and Gas Regulatory Agency
State Land Board

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Automatic Unit Termination Notice for
Failure to Meet Drilling Requirements

_____ 19 _____

Re: Automatic Termination
_____ Unit _____ County,

Gentlemen:

The _____ Unit, No. _____ X, _____ County, _____,
automatically terminated effective _____, 19 _____, pursuant to the last paragraph of
Section 9 of the unit agreement.

Copies of this letter are being distributed to the appropriate Federal agencies. It is requested that
you furnish notice of this termination to each working interest owner, lessee and lessor.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager, _____
_____ Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch
State Oil and Gas Regulatory Agency
State Land Board

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H-3180-1 - UNITIZATION (EXPLORATORY)

Voluntary Unit Termination Approval Letter

_____ 19 _____

Re: Voluntary Termination
_____ Unit
_____ County, _____

Gentlemen:

Your request for voluntary termination of the _____ Unit Agreement,
_____ County, _____, is hereby approved, effective _____,
19____, pursuant to the last paragraph of Section 20
thereof. You have fulfilled the Public Interest Requirement as defined in
43 CFR 3183.4(b).

Copies of this letter are being distributed to the appropriate Federal agencies. It is requested that
you furnish notice of this termination to each interested owner, lessee, and lessor.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager, _____
_____ Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch
State Oil and Gas Regulatory Agency
State Land Board

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H-3180-1 - UNITIZATION (EXPLORATORY)

Successor Operator Request Letter and Instrument

_____ 19 _____

Re: _____

Gentlemen:

A designation of a successor operator for the _____ Unit Agreement,
_____ County, _____, authorizing _____ to operate the
unitized area has not been filed with this office.

A successor operator is designated by the owners of the working interests, in accordance with
Section _____ of the unit agreement. If the change of operator is not filed with and approved by
this office, you are operating the _____ Unit Area without authority.

The procedure for processing and approving successor operator designations under unit
agreements has been amended to provide an optional method for obtaining approval of successor
operators which should expedite the approval process. Bureau of Land Management (BLM)
offices now have a self-certification procedure for unit agreements. A party proposing to become
the successor operator may submit a statement certifying that the required working interest owner
approvals have been obtained. The party to be designated successor operator must still execute a
Designation of Successor Unit Operator, but the document does not necessarily need to be signed
by the working interest owners. Upon verification that adequate bonding has been obtained, the
Authorized Officer (AO) may accept and approve in writing the designation of successor
operator.

For consistency in processing requests for successor operator, a standardized statement certifying
that working interest owner approvals have been obtained can be used to facilitate processing the
requests for approvals of designations of successor unit operator. The certification statement
submitted to BLM offices requesting approval of the successor operator should contain the
following language:

H-3180-1 - UNITIZATION (EXPLORATORY)

(Name of the proposed successor unit operator), as the designated successor operator under the _____ Unit Agreement, hereby certifies that the requisite approvals of the current working interest owners in the agreement have been obtained to satisfy the requirements for selection of a successor operator as set forth under the terms and provisions of the agreement.

Please be advised that you may adopt the self-certification procedure to complete the change in operator for the above Unit Agreement, or you may submit the working interest owner signatures and a revised Exhibit "B" showing the current ownership under the Unit Agreement. A copy of the latest Exhibit "B" on file with this office is available at your request.

Please complete the enclosed forms for effecting a change in operator for the _____ Unit Agreement and submit them, in triplicate, to this office within 60 days from receipt of this letter.

Should you have any questions, please contact _____ at

Sincerely,

(Authorized Officer)
Bureau of Land Management

Enclosures

bcc: District Manager _____
_____ Unit File

H-3180-1 - UNITIZATION (EXPLORATORY)

Successor Operator Instrument

RESIGNATION OF UNIT OPERATOR

_____ Unit Area

County of _____

State of _____

Unit Agreement No. _____

Under and pursuant to the provisions of Section 5 of the Unit Agreement for the Development and Operation of the _____ Unit Area, _____ County, _____, _____, the designated Unit Operator under said Unit Agreement, does hereby resign as Unit Operator, effective upon the selection and approval of a successor Unit Operator.

EXECUTED with effect as aforesaid the ____ day of _____, 19____.

ATTEST:

DESIGNATION OF
SUCCESSOR UNIT OPERATOR

_____ Unit Area

County of _____

State of _____

Unit Agreement No. _____

THIS INDENTURE, dated as of the ____ day of _____, 19____, by and between _____, hereinafter designated as "First Party," and the owners of unitized working interests, hereinafter designated as "Second Parties,"

H-3180-1 - UNITIZATION (EXPLORATORY)

W I T N E S S E T H :

WHEREAS, under the provisions of the Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. Secs. 181, et seq., as amended by the Act of August 8, 1946, 60 Stat. 950, the Secretary of the Interior, on the ____ day of

____, 19__, approved a Unit Agreement for the _____ Unit Area; and
WHEREAS (current operator) _____ has resigned as such Operator and the designation of a successor Unit Operator is now required pursuant to the terms thereon; and

WHEREAS the First Party has been and hereby is designated by Second Parties as Unit Operator, and said First Party desires to assume all the rights, duties and obligations of Unit Operator under the said Unit Agreement:

NOW, THEREFORE, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of the _____ Unit Agreement, and the Second Parties covenant and agree that, effective upon approval of this indenture by the Authorized Officer, Bureau of Land Management, First Party shall be granted the exclusive right and privilege of exercising any and all rights and privileges as Unit Operator, pursuant to the terms and conditions of said Unit Agreement; said Unit Agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said Unit Agreement were expressly set forth in this instrument.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date hereinabove set forth.

FIRST PARTY (Successor Unit Operator)

BY _____

SECOND PARTIES (Working Interests)

BY _____
Execution Date: _____

BY _____
Execution Date: _____

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CORPORATE ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me this ____ day of _____, 19__, by _____, President, and by _____, Secretary of _____, a corporation.

WITNESS my hand and official seal.

My Commission Expires: _____

Notary Public

Place of Residence:

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me this ____ day of _____, 19__, by _____, President, and by _____, Secretary of _____, a corporation.

WITNESS my hand and official seal.

My Commission Expires: _____

Notary Public

Place of Residence:

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Subsequent Joinder Approval Letter

_____ 19 _____

Re: Subsequent Joinder Tract #
_____ Unit _____ County, _____

Gentlemen:

Your letter dated _____, 19____, transmitted a _____ ratification and joinder to the _____ Unit and Unit Operating Agreements, _____ County, _____. The document was executed by _____, as the working interest owner in Tract No. _____, Federal Lease No. _____.

Pursuant to Section 28 of the unit agreement, this joinder is approved as of _____, 19____. (Tract No. _____ is now considered fully committed and Federal Lease No. _____ is now eligible for segregation pursuant to Section 18(g) of the unit agreement, Public Law 86-705, and 43 CFR 3107.3-2).

It is requested that you notify all interested parties of the joinder approval. This office will make distribution to the appropriate Federal offices.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager _____
_____ Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch w/exhibit B
State Oil and Gas Regulatory Agency
State Land Board

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Late Joinder Approval Letter

_____ 19 _____

Re: Late Joinder Tract # _____

Gentlemen:

Your letter dated _____, 19__, transmitted a _____ ratification and joinder to the _____ Unit and Unit Operating Agreements, _____ County, _____. The document was executed by _____, as the working interest owner in Tract No. __, Federal Lease No. _____. No working interest owner consent is required for this joinder due to the fact that unit operations have not commenced.

Pursuant to Section 28 of the unit agreement, this joinder is approved as of _____, 19__. (Tract No. __ is now considered fully committed and Federal Lease No. ____ is now eligible for segregation pursuant to Section 18(g) of the unit agreement, Public Law 86-705, and 43 CFR 3107.3-2).

It is requested that you notify all interested parties of the joinder approval. This office will make distribution to the appropriate Federal offices.

Sincerely,

(Authorized Officer)
Bureau of Land Management

bcc: District Manager _____
_____ Unit File
Lease Adjudication Section
MMS-RMP Reference Data Branch w/exhibit B
State Oil and Gas Regulatory Agency
State Land Board

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H-3180-1 UNITIZATION (EXPLORATORY)

GUIDELINES AND SUGGESTED FORMATS FOR OPERATOR SUBMISSIONS

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H-3180-1 UNITIZATION (EXPLORATORY)

LETTER TO THE APPLICANT PROVIDING INFORMATION ON
PREPARING APPLICATION FOR UNIT AGREEMENT

Gentlemen:

The attachments to this letter have been prepared as an aid to those responsible for preparing and handling requests for the Bureau of Land Management's (BLM) approval of actions relating to unit agreements. If the suggestions contained in the attachments are followed carefully, our personnel will be able to process requests with a minimum of delay, and the time and effort of your personnel will be employed more effectively.

All requests relating to unit agreements should be submitted to the appropriate BLM office having jurisdiction over the area in question. Preliminary discussions with the appropriate BLM office personnel during the preparation of an application are very helpful. Such discussions are especially desirable in connection with requests for approval of proposed forms of unit agreement and designation of areas as logically subject to unitization and requests defining or redefining areas reasonably proven productive of unitized substances in paying quantities.

Since some filing systems bind on the left and others bind on the top, special effort should be made to ensure that there is an adequate margin along the left side and at the top of all material prepared for submittal to the BLM.

Please ensure that all personnel who are responsible for the preparation and handling of actions relating to unit agreements are aware of the contents of the attachments to this letter.

Sincerely yours,

(Authorized Officer)
Bureau of Land Management

Attachments:

- 1 - Guidelines for Requesting Approval of a Proposed Form of Unit Agreement
- 2 - Guidelines for Requesting Designation of an Area as Logically Subject to Unitization
- 3 - Guidelines for Requesting Approval of the Executed Unit Agreement
- 4 - Guidelines for Expanding or Contracting the Unit Area
- 5 - Participating Areas
- 6 - Format for a Designation of Agent
- 7 - Format for the Delegation of Authority to Operate a Non-Paying Unit Well

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H-3180-1 UNITIZATION (EXPLORATORY)

GUIDELINES FOR REQUESTING APPROVAL OF A
PROPOSED FORM OF UNIT AGREEMENT

(This request is normally combined with the application requesting designation of an area as logically subject to unitization.)

Use of the model form of unit agreement approved by the BLM is encouraged. Whenever circumstances justify or require the use of special provisions, their inclusion in the agreement must have prior approval by the BLM authorized officer. Whenever conditions require major deviations from the forms approved by the BLM, three copies of the proposed form, including Exhibits A and B, should be submitted for the authorized officer's approval.

Every deviation from the model form of agreement should be plainly marked on the proposed form of agreement and explained in the material submitted in support of the request for approval of the form of unit agreement.

H-3180-1 UNITIZATION (EXPLORATORY)

GUIDELINES FOR REQUESTING DESIGNATION OF AN AREA
AS LOGICALLY SUBJECT TO UNITIZATION

(Submit in duplicate.)

Application should be addressed to the appropriate BLM authorized officer and should consist of an application letter accompanied by a supporting geologic report and land ownership map.

The application letter should:

1. Identify the area proposed for unitization.
 2. Cite the deepest formation to be tested and the depth to which the initial test well must be drilled to test that formation.
 3. List the serial numbers of all Federal leases, lease offers, Indian leases, and lease expiration dates. This list must be in proper sequence and may be included as part of the land ownership map.
 4. State if geological and geophysical data and discussions are to be kept confidential. If this information is to be kept confidential, each page must be clearly marked as CONFIDENTIAL INFORMATION.
-

The geologic report should include:

1. A map drawn on the public land base showing the proposed unit boundary, with detailed structural and stratigraphic conditions pertinent to the proposed unit area. The map also should show the status, depth, and lowest formation penetrated by each well drilled in the unit area and the immediate vicinity.
2. Appropriate cross sections and stratigraphic columns, identifying prospectively productive formations and indicating expected depths.
3. Pertinent geophysical interpretations.
4. Discussion of the specific geologic basis used in delineating the boundary of the proposed unit area, such as closing contour, fault, or pinch-out.

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The land ownership map should:

1. Show the area proposed for unitization on a legible plat based on the official public land survey. (Include the official number of each lot, tract, and section, the acreage in each, and the total acreage in the proposed unit area.)
2. Show the boundaries of each lease and each unleased tract of land, and the working interest owners and lease numbers of Federal and Indian leases. Unless otherwise specifically approved, the same numbers will be used on Exhibit "B" of the unit agreement.
3. Distinguish between the different types of land, such as Federal, Indian, State, or fee lands by distinctive coloring or symbols. Different types of Federally supervised lands, such as Forest Service, Fish and Wildlife Service, and Indian allotted or tribal lands should also be identified in a similar manner.

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GUIDELINES FOR REQUESTING APPROVAL OF
THE EXECUTED UNIT AGREEMENT

(Submit minimum of ____ duplicate originals.)

Generally, when more than four duplicate originals are required, the authorized officer's letter designating an area as logically subject to unitization will specify the number of executed agreements to be filed with the request for final approval. The executed agreements submitted with the request for final approval should include an original of the agreement and all joinders, consents, and exhibits. The proponent is responsible for meeting non-Federal requirements for copies of the agreement.

During the preparation of an executed agreement for final approval, review the following requirements.

1. Executed agreement.
 - a. The executed agreement must be identical to that approved in the designation letter. The unit area, objective formation, and drilling depths cited in the agreement must conform with those prescribed in the designation letter.
 - b. Exhibit B should list the lands in the unit area in the following order: Federal, Indian, State, and fee.
 - (1) Tracts. Each separately owned lease, portion of a lease, or unleased tract of land should be given a tract number. This tract number should be determined by the order of its listing in Exhibit B and should appear in its appropriate place on Exhibit A.
 - (2) Federal leases should be listed in numerical order by issuing land office.
 - (3) Indian leases should be listed in numerical order.
 - (4) The total acreage of each type of land and its percentage of the total unit area should be included in Exhibit B.

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2. Number of duplicate originals of the unit agreement to be filed.
 - a. For Federal leases, all of which are under the jurisdiction of the BLM, complete duplicate originals are required.
 - b. For Federal leases involving other surface management agencies (SMA's), those in 2a plus the quantities needed for the other SMA's.
 - c. For Federal and Indian leases with no other SMA's involved, add two to requirements under 2a.
3. Joinder and nonjoinder.
 - a. Invite every owner of an interest to join the unit agreement.
 - b. Submit evidence of reasonable effort to obtain joinder from all owners who fail or refuse to sign the unit and unit operating agreement. (Include copy of each refusal letter giving reasons for nonjoinder.)
4. Signatures and executions.
 - a. Signatures should be witnessed or acknowledged before a notary.
 - b. Execution by a corporate official should show title and carry proper attestation and the corporate seal.
 - c. Agreements submitted for final approval may include a list of the overriding royalty interest owners who have executed ratification of the unit agreement in lieu of duplicate originals of said joinders.

5. Tract Commitment Status (optional)

A summary showing the commitment status of the tracts within the unit boundary (see attached)

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GUIDELINES FOR EXPANDING OR CONTRACTING THE UNIT AREA

It is necessary to secure the preliminary concurrence of the authorized officer for a change in a unit boundary before notices reflecting the proposed change are sent to the interested parties. Most agreements include provisions that set forth the procedures to be followed in changing the unit boundaries.

An application for final approval of an expansion or contraction of a unit area should not be submitted until all pertinent provisions of the unit agreement have been satisfied.

The procedures recommended in connection with expansion or contraction of unit areas are outlined below.

1. Preliminary approval (submit request in quadruplicate). (This action is comparable to designation of an area as logically subject to unitization.)

The request for preliminary approval of the proposed action (contraction or expansion) may be in letter form. It must contain sufficient information and supporting data to justify the proposed action. The supporting engineering and geologic data may be submitted as a separate report. Any data considered proprietary should be clearly marked on each page as CONFIDENTIAL INFORMATION.

2. Notice to interested parties (submit four copies to authorized officer).

Notices of the proposed change in the unit area should be sent to all parties whose interest will be affected only after the authorized officer gives preliminary concurrence in the proposal. Extreme care should be taken to see that each principal is notified of the proposal. The date of proper notice establishes the start of the 30-day period allowed for the submission of objections to the unit operator. The effective date for the proposed expansion or contraction should be specified in the notice. (The first day of a month subsequent to the dispatching of the notice is suggested as a desirable effective date.) The notice should include a small plat that clearly shows the current unit area and the area to be added and/or eliminated.

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3. Request for final approval (submit in quadruplicate).

The request for final approval may be submitted after the required 30-day waiting period has expired. The application should summarize the procedures followed and show that all requirements prescribed in the unit agreement have been fulfilled. If the application requests approval for expansion of the unit area, joinders to the unit agreement and, when appropriate, to the unit operating agreement must accompany the request. Joinders must be submitted by the owners of interests within the area being added, even though the interest owner is already a party to the unit agreement. Copies of any objections to the proposed expansion and/or contraction should be submitted with the request for final approval, along with the operator's reply and/or discussion of the relative merits of the objections received.

4. Revised Exhibits A and B.

Revised Exhibits A and B must be submitted concurrently with a request for approval of an expansion of the unit area and should be submitted concurrently with or immediately following approval of a request for contraction of the unit area. Revised exhibits prepared in connection with an expansion or contraction should retain the tract numbers contained in the original exhibits. Lands being added to the unit area should be assigned tract numbers that follow the original tract numbers in proper sequence.

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H-3180-1 UNITIZATION (EXPLORATORY)

PARTICIPATING AREAS

Participating areas (PA's) are established and revised in accordance with the applicable provisions of the controlling unit agreement.

The application for approval of the initial PA or for the revision of an existing PA must be accompanied by a request for determination of production of unitized substances in paying quantities (see Section 9 of the model form of unit agreement, 43 CFR 3186.1) for the well or wells being used to justify the PA, or its revision, unless these determinations have already been made.

Applications for establishment or revision of a PA should be accompanied by comprehensive engineering and geologic information which justifies the proposed definition or redefinition of the lands reasonably proven to be productive of unitized substances in paying quantities. These reports should indicate which wells are shut in and which wells are producing. Current and cumulative production figures should also be cited. Comments on expectations relative to the development of a market should be included when wells are shut in for lack of a market.

Noncommitted lands within the unit area reasonably proven productive in paying quantities should be included within the area defined as constituting the initial or revised participating area for the ~~formation in question. Such noncommitted lands should be shown on the schedule of~~ participation as receiving no allocation. Normally, the percentage of participation attributable to each committed tract within a participating area shall be computed to four decimals.

Preliminary discussions with the BLM authorized officer should prove helpful to those responsible for preparation of participating area applications. The model applications that are attached hereto have been prepared for use as guides in the preparation of requests for the authorized officer's approval of the establishment or revision of participating areas.

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FORMAT FOR INITIAL PARTICIPATING AREA APPLICATION

Application for _____ County, _____.

In Re: _____ Unit Area

approval of initial participating area for the _____ Formation.

(Authorized Officer)
Bureau of Land Management

Re: _____ Unit Area
Application for _____ County, _____.
approval of initial participating area for the _____ Formation.

_____, as unit operator for the _____ Unit Agreement, pursuant to provisions of Section ____ thereof, respectfully submits for your approval the selection of the following described lands to constitute the initial participating area for the _____ producing zone or formation, to wit: (Description of initial participating area by township, range, section, and subdivisions, with exact total acreage.)

In support of this application, the following numbered items are attached and made a part hereof:

- (1) A paying well determination showing that the well upon which the participating area is based is capable of producing unitized substances in paying quantities.
- (2) An ownership map (Exhibit "A") showing thereon the boundaries of the unit area and the proposed initial participating area.
- (3) A schedule showing the lands entitled to participation in the unitized substances produced from the _____ Formation, with the percentage of participation of each lease or tract indicated thereon. (The schedule may be patterned after Exhibit "B" of the unit agreement with appropriate adjustments.)

Applicant is submitting separately in triplicate a geological and engineering report with accompanying geologic maps supporting and justifying the proposed selection of lands for inclusion in the initial _____ Formation participating area.

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This proposed initial participating area is predicated upon the knowledge and information first obtained upon the completion in paying quantities under the terms of the unit agreement on ____, 19__, of Unit Well No. ____, in the __ 1/4 __ 1/4, Sec. __, T. __, R. __, with an initial production of ____ from the ____ Formation at a depth of ____ to ____ feet (if several wells, recite or tabulate in detail). The effective date of this initial participating area shall be ____, 19__, pursuant to Section __ of the unit agreement.

Applicant respectfully requests your approval of the above selection of lands to constitute the initial ____ Formation participating area, effective as of ____, 19__.

Dated this _____.

(Signature, with typed name and title)

Exhibit "B"
Initial _____ Formation
Participating Area
Unit Agreement

County, _____

<u>Tract No.</u>	<u>Lease No. or type of land</u>	<u>Description</u>	<u>Participating acres</u>	<u>Percent of participation</u>	<u>Working interest owner</u>
1	B-038470	Sec. 14: SW SW Sec. 15: S½ SE Sec. 23: W½ NW	200.00	55.5556	Frost Oil Co.
2	Patented	Sec. 22: NE	160.00	44.4444	W. W. Smith
Total Federal lands			200.00	55.5556	
Total patented lands			<u>160.00</u>	<u>44.4444</u>	
Total			360.00	100.0000	

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FORMAT FOR APPLICATION FOR REVISION OF A PARTICIPATING AREA

(Authorized Officer)
Bureau of Land Management

Re: _____ Unit Area
Application for _____ County, _____.
approval of the _____ revision of the participating area
for the _____ Formation.

_____, as unit operator for the _____ Unit Agreement,
approved by the Bureau of Land Management, effective _____, pursuant to the provisions of
Section _____ thereof, respectfully submits for your approval the selection of the following
described land to constitute the _____ revision of the participating area for the _____
producing zone or formation, to wit: (Give only the accurate description and the exact number of
acres being added to or being subtracted from the participating area as established or revised.)

In support of this application, the following numbered items are attached and made a part
hereof:

- (1) A paying well determination showing that the well upon which the
participating area is based is capable of producing unitized substances in
paying quantities.
- (2) An ownership map (Exhibit "A") showing thereon the boundary of the unit
area, the participating area as established or revised, and the boundary of
the proposed revision requested herein.
- (3) A schedule (Exhibit "B") showing the lands entitled to participation in the
unitized substances produced from the _____ Formation, with the
percentage of participation of each lease or tract indicated thereon.

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Applicant is submitting separately in triplicate a geological and engineering report with accompanying maps supporting and justifying the proposed selection of lands for inclusion in the ____ revision of the ____ Formation participating area.

This proposed ____ revision of the participating area is predicated upon the knowledge and information first obtained upon completion in paying quantities under the terms of the unit agreement on ____, 19__, of Unit Well No. ____, in the ____ 1/4 ____ 1/4, Sec. __, T. __, R. __, with an initial production of ____ from the ____ Formation at a depth of ____ to ____ feet (if several wells, recite or tabulate in detail). The effective date of this ____ revision shall be ____, 19__, pursuant to Section __ of the unit agreement.

Applicant requests your approval of the above selection of lands to constitute the ____ revision of the ____ Formation participating area effective as of ____, 19__.

Dated _____.

(Signature, with typed name and title)

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Exhibit "B"
Revision _____ Formation
Participating Area
Unit Agreement
_____, County, _____

Tract No.	Lease No. or type of land	Description	Participating acres	Percent of participation	Working interest owner
1	B-038470	Sec. 14: SW SW Sec. 15: S½ S½ Sec. 23: W½ NW	280.00	38.8889	Frost Oil Co.
3	W-041345	Sec. 21: E½ NE	80.00	11.1111	Frost Oil Co.
7	State	Sec. 16: SE SE	40.00	5.5556	Deer Oil Co.
9	Patented	Sec. 22: N½	320.00	44.4444	W. W. Smith
Total Federal lands			360.00	50.0000	
Total State land			40.00	5.5556	
Total patented lands			320.00	44.4444	
Total			720.00	100.0000	

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FORMAT FOR A DESIGNATION OF AGENT

(Submit in triplicate)

The undersigned is, on the records of the Bureau of Land Management, Unit Operator under the _____ Unit Agreement, _____ County, _____, No. _____, approved and effective on _____

and hereby designates:

Name: _____

Address: _____

as its agent, with full authority to act on its behalf in complying with the terms of the unit agreement and regulations applicable thereto and on whom the Authorized Officer or his representative may serve written or oral instructions in securing compliance with the Oil and Gas Operating Regulations with respect to drilling, testing, and completing Unit Well No. _____ in the _____ 1/4 _____ 1/4, Sec. _____, T. _____, R. _____, _____ County, _____. Bond coverage will be provided under (Statewide, Nationwide, Lessee) Bond No. _____.

It is understood that this Designation of Agent does not relieve the Unit Operator of responsibility for compliance with the terms of the unit agreement and the oil and gas operating regulations. It is also understood that this Designation of Agent does not constitute an assignment of any interest under the unit agreement or any lease committed thereto.

In case of default on the part of the designated agent, the Unit Operator will make full and prompt compliance with all regulations, lease terms, or orders of the Secretary of the Interior or his duly authorized representative.

The Unit Operator agrees promptly to notify the Authorized Officer of any change in the designated agent.

This Designation of Agent is deemed to be temporary and in no manner a permanent arrangement, and a designated agent may not designate another party as agent.

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This designation is given only to enable the agent herein designated to drill the above specified well. It is understood that this Designation of Agent is limited to the field operations performed while drilling and completing the specified well and does not include administrative actions requiring specific authorization of the Unit Operator. This designation in no way will serve as authorization for the agent to conduct field operations for the specified well after it has been completed for production. Unless sooner terminated, this designation shall terminate when there is filed in the appropriate office of the Bureau of Land Management all reports and a Well Completion Report and Log (Form 3160-4) as required by the approved Application for Permit to Drill for the specified well.

In the event the above specified well is completed as a non-paying unit well, the authority for the designated agent to operate this well shall be established by completion of the Delegation of Authority to Operate Non-paying Unit Well form and submittal of the form to the appropriate office of the Authorized Officer.

_____ Date	_____ Unit Operator
_____ Date	By: _____ Authorized Officer

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FORMAT FOR THE DELEGATION OF AUTHORITY
TO OPERATE A NON-PAYING UNIT WELL

(Submit in triplicate)

The undersigned delegates authority to:

Name: _____

Address: _____

to produce and maintain the following described well which has been determined to be a non-paying unit well within the _____ Unit.

Well No. _____ Lease No. _____

Location: ___ 1/4 ___ 1/4, Sec. __, T. __, R. __,

_____ County, _____.

Bond coverage will be provided under (Nationwide, Statewide, Lessee) Bond No. _____. The undersigned will promptly notify the appropriate Bureau of Land Management office of any change in this delegation of authority. This delegation does not relieve the Unit Operator of unit obligations and related reporting responsibilities as they apply to the unit well or for compliance with all applicable laws and regulations for operations conducted on the well so long as the lands upon which the well is located shall remain subject to the unit agreement.

Operator - Non-paying Unit Well _____ Unit Operator

By: _____ By: _____
Authorized Signature Authorized Signature

Title Date Title Date

Approved By: _____
Authorized Officer

Title Date

Attachment 7

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Numbering System For Approved Unit Agreements

The official Bureau of Land Management number for exploratory and secondary recovery unit agreements approved prior to January 1, 1988, will be considered to be the Automated Financial System (AFS) number assigned by the Minerals Management Service (MMS) with an "X" suffix (i.e., 891003502X). All initial and consolidated participating areas approved for a unit agreement approved prior to January 1, 1988, will be assigned a unique AFS number which is the base AFS number with an alpha suffix that sequentially follows the already assigned alpha suffixes for existing participating areas. This applies to all participating areas in units approved prior to January 1, 1988, regardless of when the participating area is approved. New numbers are not assigned to revisions of participating areas.

For exploratory and secondary recovery unit agreements approved after January 1, 1988, a Case Recordation System (CRS) number with an "X" suffix (i.e., COC12345X) will be assigned to all agreements. The same CRS number with a corresponding A, B, C, D, etc., suffix will be used to identify each initial or consolidated participating area in a unit area. The first participating area established for the unit will always be assigned the same CRS number for the unit agreement but instead of an "X" suffix an "A" suffix (i.e., COC12345A) will be used. All subsequent participating areas would have a number composed of the core CRS number for the unit agreement with an appropriate alpha suffix assigned by effective date in alphabetical order (i.e., COC12345B, COC12345C, etc.). Again, revised participating areas do not receive a new alpha suffix.

The old 14-digit contract numbering system will not be used for agreements approved after January 1, 1988. This 14-digit contract number is only considered a cross-reference number for agreements approved prior to that date.

Since initial and consolidated participating areas have a unique number, it needs to be assigned when the participating area is approved and so stated in the approval letter to the operator.

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Compensatory Royalty Provision in Unit Agreement
for Unleased Federal Lands

The following text which revises Section 12, reassigns the existing text of Section 17 as paragraph 17(a), and adds a new paragraph (b) to Section 17 of the model form of unit agreement found at 43 CFR 3186.1, should be used in all future Federally-approved exploratory unit agreements.

12. ALLOCATION OF PRODUCTION. All unitized substances produced from a participating area established under this agreement, except any part thereof used in conformity with good operating practices within the unitized area for drilling, operating, and other production or development purposes, or for repressuring or recycling in accordance with a plan of development and operations which has been approved by the AO, or unavoidably lost, shall be deemed to be produced equally on an acreage basis from the several tracts of unitized land and unleased Federal land, if any, included in the participating area established for such production. Each such tract shall have allocated to it such percentage of said production as the number of acres of such tract included in said participating area bears to the total acres of unitized land and unleased Federal land, if any, included in said participating area. Each working interest owner of a tract of unitized land in said participating area shall have allocated to it, in addition, such percentage of the production attributable to the unleased Federal land within the participating area as the number of acres of such unitized tract included in said participating area bears to the total acres of unitized land in said participating area, for the payment of the compensatory royalty specified in Section 17 of this agreement. Allocation of production hereunder for purposes other than for settlement of the royalty, overriding royalty, or payment out of production obligations of the respective working interest owners including compensatory royalty obligations under Section 17, shall be prescribed as set forth in the unit operating agreement or as otherwise mutually agreed to by the affected parties. It is hereby agreed that production of unitized substances from a participating area shall be allocated as provided herein, regardless of whether any wells are drilled on any particular part or tract of the participating area. If any gas produced from one participating area is used for repressuring or recycling purposes in another participating area, the first gas withdrawn from the latter participating area for sale during the life of this agreement, shall be considered to be the gas so transferred, until an amount equal to that transferred shall be so produced for sale

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and such gas shall be allocated to the participating area from which initially produced as such area was defined at the time that such transferred gas was finally produced and sold.

* * * * *

17. DRAINAGE.

(a) * * * * *

(b) Whenever a participating area designated under Section 9 of this agreement contains unleased Federal lands, the value of 12 1/2 percent of the production that would be allocated to such Federal lands under Section 12 of this agreement, if such lands were leased, committed and entitled to participation, shall be payable as compensatory royalties to the Federal Government. Working interest owners party to this agreement and within the applicable participating area shall be responsible for such compensatory royalty payment on the volume of production reallocated from the unleased Federal lands to their unitized tracts under Section 12. The value of such production subject to the payment of said royalties shall be determined pursuant to 30 CFR Part 206. Payment of compensatory royalties on the production reallocated from unleased Federal land to committed Federal tracts within the participating area shall fulfill the Federal royalty obligation for such production and said production shall be subject to no further Federal royalty assessment under Section 14. Payment of compensatory royalties as provided herein shall accrue from the date the committed tracts in the participating area which includes unleased Federal lands receive a production allocation, and shall be due and payable monthly by the last day of the calendar month next following the calendar month of actual production. If leased Federal lands receiving a production allocation from the participating area become unleased, compensatory royalties shall accrue from the date the Federal lands become unleased. Payment due under this provision shall end when the unleased Federal tract is leased or when production of unitized substances ceases within the participating area and the participating area is terminated, whichever occurs first.

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Communitization Agreements in Units

In situations involving an overlapping communitization agreement (CA) and participating area (PA), the following procedures should be invoked:

- (1) CA entirely within the PA; all CA lands committed to the unit agreement. Under these conditions, the CA is considered to be silent as far as production allocation is concerned. Because the CA serves no purpose from an allocation standpoint, an attempt should be made to have the CA terminated effective as of the effective date of the PA. For reporting purposes, if the CA is not terminated, the CA well should be reported under the PA, with one hundred percent of the CA well's production reported under and attributed to the PA. The letter approving the PA engulfing the CA should state that 100 percent of the royalties due from the CA well's production is to be applied to and paid for under the PA. A courtesy copy of this letter should be sent to the CA operator.
- (2) CA entirely or partially overlapped by a PA; some overlapped land not committed to the unit agreement. Under this scenario, all of the CA well's production is to be reported under the CA. The location of the CA well makes no difference. The approval letter for the overlapping PA should state what percentage of the royalties due from the CA well's production is to be applied to and paid for under the PA (i.e., the number of acres of CA lands within the PA that are considered committed to the unit agreement, divided by the total acres of the CA), and also what percentage of each CA tract considered committed to the unit is also contained in the PA. A courtesy copy of this letter should be sent to the CA operator.
- (3) CA partially overlapped by PA; all overlapped lands committed to the unit agreement. The guidelines described in (2) would also apply in this situation.

MMS has agreed to internally account for the payment of proper royalties for leases subject to overlapping agreements pursuant to these procedures. These procedures are applicable if the overlapping CA/PA cover the same formation; otherwise, there is no potential conflict. The following examples reflect the situations described above.

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Case 1: CA ENTIRELY WITHIN PA; ALL CA LANDS COMMITTED TO UA

CA boundary

In this scenario, where the entire CA is contained within the PA and all lands in the CA are committed to the unit, the CA could probably have been terminated by mutual consent. However, the CA was not terminated. In either case, the CA well is essentially considered a unit well and 100 percent of its production would be allocated to the participating area. Lease Nos. 1 and 2 each get 20 percent of the gross production for the participating area.

Recording Data in AIRS

1. AIRS will contain an inspection item identifier for the participating area. The participating area will contain a well record for each well, including the CA well. The "Lease-CA-Number" data field should show the lease number for the well bottomhole location. The remarks section for the CA well should reflect the CA numbers and the allocated amount according to the participating area schedule.
2. Do not set up records for the CA or leases in AIRS.

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Case 2: CA WITHIN PA; SOME OVERLAPPED LANDS UNCOMMITTED TO UA

CA boundary

In this scenario, the CA could never be terminated even though it is entirely included in a PA. It contains lease No. 2, which is not committed to the UA. Without the CA or joinder to the UA, lease No. 2 could never be protected from drainage due to the constraints of State spacing. Lease No. 2 is totally within the PA's boundary. It receives 25 percent allocation from the CA and nothing from the PA. Lease No. 1 is committed to the unit and within the PA boundary. It receives 75 percent allocation from the CA which is attributed to the PA. Subsequently, lease No. 1 receives 20 percent of the production from the PA.

Recording Data in AIRS:

1. The CA will be recorded in AIRS as an inspection item. The CA well record will cross-reference the PA identifier in the well remarks data field. The CA's Lease-CA-Number element should show the lease for the well bottomhole location included in the CA with their allocated amount.
2. AIRS will contain an inspection item for the participating area if there are Federal wells. However, the CA well will not be recorded under the participating area. Cross-reference to the CA may be placed in the participating area's inspection record remarks section.
3. AIRS will not contain a separate inspection item for the leases in the CA.

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Case 3: CA PARTIALLY WITHIN PA; ALL OVERLAPPED LANDS COMMITTED TO UA

CA boundary

In this scenario, the participating area was effective March 1958. A communitization agreement was formed June 1974 and comprised lease 1 and lease 2. The CA well is located outside unit boundaries. Lease 1 is committed to the unit and 50 percent of this lease is contained inside the PA. Lease 2 is totally outside the unit. Lease 1 comprises 33 percent of the CA and lease 2 comprises 67 percent of the CA. Therefore, 16.5 percent of the CA well's production is attributed to lease 1 with the remaining 16.5 percent of the 33 percent allocation for lease 1 being attributed to the participating area. From this participating area lease 1 will receive an allocation from the gross production attributed to the participating area. The allocation of production attributed to the participation area will be the same if the CA well is located inside the unit boundaries.

Recording Data in AIRS:

1. The CA will be recorded in AIRS as an inspection item. The CA well record will cross-reference the PA identifier in the well remarks data field with their allocated amount. The CA Lease-CA-Number element should show the leases included in the CA.
2. No well record for the CA well is to be carried under the inspection item identifier for the PA. Cross-reference to the CA may be placed in the inspection record remarks section.
3. AIRS will not contain an inspection item for the leases in the CA.

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AIRS/MRO Reporting Format for Unit WellsUNIT WELL STATUS

AIRS
 Elements Spud Completed
 (Pending Paying Well Non-paying Well
 Determination) Determination Determination.

<u>1. Inspection Item Identifier (ID)</u>				
A. Lease No.		X**		X***
B. Unit Agreement (UA) No.	X*		X+PA suffix (replacing "X" suffix)	
<u>2. Lease Name</u>				
A. Lease No.		X**		X
B. Unit Name	X		X	
C. Participating Area (PA)/ Unit Name		X		
<u>3. Operator</u>				
A. Lessee/ Designated Operator				X****
B. Unit Operator (UO) or Suboperator	X	X	X	
<u>4. General Remarks/ Well Records</u>				
A. Unit Inspection ID	"Drilling"	Completion Date "Pending Determination"	Lease No.	
B. Lease Inspection ID				Unit Name "Non-paying Unit Well" and possibly UO

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X = Is what entry is to occur on AIRS under a specific inspection identifier.

* = If UA approved prior to 1/1/88, then the number is the Automated Financial System No. If UA approved on or after 1/1/88, then the number is the Case Recordation System No. which includes an "X" suffix. An inspection record for the UA must be created when the first unit well is spudded. All wells being drilled in the unit would be carried under this inspection item ID. However, in the formation covered by the PA, then this well should be carried under the number for the PA. If there is no drilling activity or there are no completed wells which have a pending paying well determination on non-participating area lands for an existing UA, then no inspection record under the UA number with an X suffix should be created.

** = The exception to reporting unit wells which have a pending paying/nonpaying well determination under the unit number would be when a paying well determination for a Federal well completed for production outside an existing participating area will be delayed for a significant period of time due to extended production testing requirements or due to a unit suspension. If the authorized officer approves/orders such a delay for a Federal well, then this well is to be recorded in AIRS under the lease inspection item identifier until the determination is made. The remarks section of the well record should reflect when the well was completed, unit name, pending determination delayed, and reason for delay (i.e., comp. 9/15/87, McElmo Dome, Pend. Det. Delay, Production Test Req.).

*** = If a fee/State well is determined to be a non-paying unit well and is not covered by a PA, then its well record should be removed from AIRS. In some cases, a unit well, be it Federal or non-Federal, may be a non-paying well, but is situated on land considered part of a PA established for the same formation from which the well can produce. These unique wells should be carried under the PA number since all of the wells' production would be attributed to the gross production for the PA.

**** = In many cases, someone other than the unit operator is allowed to operate a nonpaying unit well. Whoever is accepted as operator of the well should be responsible for reporting.

Whenever a non-paying unit well is automatically eliminated from the unit area, the UO and the unit name can be removed from the remarks section of the well record which is carried under the lease number for the inspection item ID.

For a contracted unit area, only those wells drilled in the unit area having an objective formation not covered by the corresponding PA will be reported under the UA number with an X suffix.

This reporting format is referenced in the AIRS User Handbook, which instructs field offices on how to enter unit wells into AIRS. This structuring of AIRS will be compatible with the way the Monthly Report of Operations is to be submitted to MMS by the Unit Operator.

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Guidelines for the Unit Activity Report

UNIT ACTIVITY REPORT

The Unit Activity Report should be used for the following unit wells.

1. Any well drilled to extend the date of automatic elimination of lands as provided in subsection 2(e), 43 CFR 3186.1. The completion date of any well drilled under this section is very important. The period of time allowed between wells commences after the well is completed and, if another well is not timely started, the automatic elimination is effective the first day thereafter, as provided in the model unit agreement (43 CFR 3186.1). If a later well is completed prior to a well that was started earlier, the completion date of the latter well would govern. These wells should be put on the report when spudded and carried every month, showing the status until the well is completed.
2. Any well drilled under Section 9 (43 CFR 3186.1). These wells are usually required every 6 months and keep the unit in effect for its fixed term until a well capable of producing unitized substances in paying quantities is completed. As provided in the model unit agreement (43 CFR 3186.1), failure to commence a well timely will result in automatic termination of the unit agreement. These wells should be put on the report when the well is spudded and carried until completed.
3. Any well completed or recompleted that may result in the revision of an existing participating area or establishment of an initial participating area. It should be noted in the "Paying Well" column of the form whether you consider the well capable of producing unitized substances in paying quantities. This should be noted with a "yes", "no", or "questionable". You need not make a detailed study on this point. These wells need to be listed on the report for the month in which they are commenced and the month they are completed.
4. Any well plugged and abandoned that is the last producing well in a participating area. These wells need to be listed on the report only for the month in which they are plugged and abandoned. The model unit agreement (43 CFR 3186.1) provides that a participating area will automatically terminate upon the abandonment of the last producing well. Prior to June 10, 1983, the model unit agreement did not provide for such participating area termination and, under those earlier agreements, such a nonproducing participating area will continue for the life of the unit agreement.

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Sample Text for State Land Provisions in the Unit Agreement

WYOMING STATE LAND PROVISIONS

35. STATE LAND PROVISIONS. Certain of the unitized land is public land of the State of Wyoming, and in connection with the approval of this agreement by the Board of Land Commissioners of said State pursuant to Title 36, Section 36-74, Wyoming Statutes, 1957, it is agreed that there shall be filed with the Commissioner of Public Lands of said State:

(a) Two copies of the complete unit agreement and two copies of any revised Exhibits "A" and "B" concurrently with the filing thereof with the AO, pursuant to Section 2 hereof.

(b) Two copies of any notice of the proposed expansion or contraction of the unit area required to be delivered to the AO pursuant to Section 2(b) hereof.

(c) Two copies of any unit operating agreement executed pursuant to Section 7 hereof.

(d) Two copies of any schedule of proposed participating area submitted for approval under Section 11, concurrently with its submission to the AO. The Commissioner or his authorized representative shall have a period of fifteen days from receipt of said schedule within which to file with the AO any objection thereto, together with any recommendation for revision thereof. If such objection or recommendation is not concurred in by Unit Operator and the AO prior to submission of the schedule to the AO for final approval, the AO shall approve or disapprove the schedule after giving due consideration to the objections and recommendations filed by the Commissioner or his representative.

(e) Two copies of any proposed plan of development or modification thereof, which if filed with the AO under Section 10 hereof.

(f) Two copies of all instruments of subsequent joinder executed under Section 28 hereof.

It is further agreed that:

(1) All valid, pertinent and reasonable regulations hereafter issued governing drilling and producing operations on non-Federal lands which are not inconsistent with the terms hereof or with the laws of the State of Wyoming are hereby accepted and made a part of this agreement.

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WYOMING STATE LAND PROVISIONS

(2) Nothing in this agreement contained shall relieve lessees of the public lands of the State of Wyoming from their obligations to pay rentals and royalties with respect to unitized substances allocated to such lands thereunder, at the rate specified in their respective leases.

(3) In the event that a title dispute arises as to State lands or leases, no payment of funds due the State of Wyoming shall be withheld, but such funds shall be deposited as directed by the Commissioner of Public Lands to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

Each party to this agreement, holding any lease or leases of public lands from the State of Wyoming subject to this agreement, or holding any interest in or under such lease or leases or in the production from the lands covered thereby, agrees that said Board of Land Commissioners may, and by its approval thereof, does hereby alter, change, modify or revoke the drilling, producing and royalty requirements of such lease or leases, and the regulations in respect thereto, to conform the provisions of said lease or leases to the provisions of this agreement. Such parties and said Board further agree that, except as otherwise expressly provided in this agreement, no such lease shall be deemed to terminate or expire so long as it shall remain committed hereto. Notwithstanding anything to the contrary in Section 18 hereof contained, should any of the public lands of the State of Wyoming outside of a participating area established hereunder cease to be committed to this agreement, such lands shall thereafter be free from the effect of this agreement unless and until such lands are expressly recommitted to this agreement pursuant to Section 28 hereof, with the approval of the Board of Land Commissioners.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed and have set opposite their respective names the date of execution.